

NYSE Listed Company Manual

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102.01 Minimum Numerical Standards—Domestic Companies—Equity Listings

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102.00 Domestic Companies

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102.01C A company must meet one of the following financial standards.

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(II) [**Valuation/Revenue Test** Companies listing under this standard may satisfy either (a) the Valuation/Revenue with Cash Flow Test or (b) the Pure Valuation/Revenue Test.

(a) Valuation/Revenue with Cash Flow Test—

- (1) at least \$500,000,000 in global market capitalization,
- (2) at least \$100,000,000 in revenues during the most recent 12 month period, and
- (3) at least \$25,000,000 aggregate cash flows for the last three fiscal years with positive amounts in all three years, as adjusted pursuant to Paras. 102.01C (I)(3)(a) and (b), as applicable.

A company that (i) qualifies as an emerging growth company as defined in Section 2(a)(19) of the Securities Act and Section 3(a)(80) of the Exchange Act and (ii) avails itself of the provisions of the Securities Act and the Exchange Act permitting emerging growth companies to report only two years of audited financial statements, can qualify under the Valuation/Revenue test by meeting the requirements in (1) and (2) above and the following requirement in lieu of (3) above: at least \$25,000,000 aggregate cash flows for the last two fiscal years with positive amounts in both years, as adjusted pursuant to Paras. 102.01C (I)(3)(a) and (b), as applicable.

Financial statements compliant with applicable SEC rules covering a period of nine to twelve months shall satisfy the requirement to demonstrate cash flows for the most recent fiscal year in those cases where the Company has changed its fiscal year or where there has been a significant change in the Company's

operations or capital structure. Financial statements compliant with applicable SEC rules covering a period of six months shall satisfy the requirement for the most recent fiscal year in those cases where the Company has changed its fiscal year or where there has been a significant change in the Company's operations or capital structure, provided that the Company must include financial data as derived from financial statements that have been subject to an SAS 100 review in a public disclosure (either an SEC filing or a press release) prior to the date of listing that confirms that the Company continues to satisfy the applicable standard based on at least nine completed months of the current fiscal year. As a condition to the Exchange's reliance on the interim financial information for the nine-month period, the company will be required to demonstrate that its independent accountant has performed sufficient procedures on such information in accordance with generally accepted auditing standards or other agreed upon procedures performed at the underwriter's request. When qualifying companies for listing based on interim financial information from the current fiscal year, the Exchange must conclude that the Company can reasonably be expected to qualify under the regular valuation/revenue standard upon completion of its then current fiscal year. If the Company does not qualify under the regular valuation/revenue standard at the end of such current fiscal year or qualify at such time for original listing under another listing standard, the Exchange will promptly initiate suspension and delisting procedures with respect to the Company.

A Company must demonstrate cash flow based on the operating activity section of its cash flow statement. Cash flow represents net income adjusted to (a) reconcile such amounts to cash provided by operating activities, and (b) exclude changes in operating assets and liabilities. With respect to reconciling amounts pursuant to this Paragraph, all such amounts are limited to the amount included in the company's income statement.

In the case of companies listing in connection with an IPO or an Initial Firm Commitment Underwritten Public Offering, the company's underwriter (or, in the case of a spin-off, the parent company's investment banker or other financial advisor) must provide a written representation that demonstrates the company's ability to meet the \$500,000,000 global market capitalization requirement based upon the completion of the offering (or distribution).

Generally, the Exchange expects to list companies in connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off. However, the Exchange recognizes that some companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement filed solely for the purpose of allowing existing shareholders to sell their shares. Consequently, the Exchange will, on a case by case basis, exercise discretion to list companies

whose stock is not previously registered under the Exchange Act, where such a company is listing without a related underwritten offering upon effectiveness of a registration statement registering only the resale of shares sold by the company in earlier private placements. In such cases, the Exchange will determine that the company has met the global market capitalization value requirement based on a combination of both (i) an independent third-party valuation (a "Valuation") of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a "Private Placement Market"). The Exchange will list a company using this approach only if it determines that such company has a global market capitalization of \$600,000,000. The Exchange will attribute a global market capitalization to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market. Any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. The Exchange will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. In particular, the Exchange will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent with a sustained history over that several month period evidencing a market value in excess of the Exchange's market value requirement. The Exchange may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

(b) Pure Valuation/Revenue Test—

- (1) at least \$750,000,000 in global market capitalization, and
- (2) at least \$75,000,000 in revenues during the most recent fiscal year.

In the case of companies listing in connection with an IPO or an Initial Firm Commitment Underwritten Public Offering, the company's underwriter (or, in the case of a spin-off, the parent company's investment banker or other financial advisor) must provide a written representation that demonstrates the company's ability to meet the \$750,000,000 global market capitalization

requirement based upon the completion of the offering (or distribution). For all other companies, market capitalization valuation will be determined over a three-month average. In considering the suitability for listing of a company pursuant to the provision in the immediately preceding sentence, the Exchange will consider whether the company's business prospects and operating results indicate that the company's market capitalization value is likely to be sustained or increase over time.

Generally, the Exchange expects to list companies in connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off. However, the Exchange recognizes that some companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement filed solely for the purpose of allowing existing shareholders to sell their shares. Consequently, the Exchange will, on a case by case basis, exercise discretion to list companies whose stock is not previously registered under the Exchange Act, where such a company is listing without a related underwritten offering upon effectiveness of a registration statement registering only the resale of shares sold by the company in earlier private placements. In such cases, the Exchange will determine that the company has met the global market capitalization value requirement based on a combination of both (i) an independent third-party valuation (a "Valuation") of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a "Private Placement Market"). The Exchange will list a company using this approach only if it determines that such company has a global market capitalization of \$900,000,000. The Exchange will attribute a global market capitalization to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market. Any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. The Exchange will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. In particular, the Exchange will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent

with a sustained history over that several month period evidencing a market value in excess of the Exchange's market value requirement. The Exchange may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

OR

(III) Affiliated Company Test

- (1) at least \$500,000,000 in global market capitalization;
- (2) at least 12 months of operating history (although a company is not required to have been a separate corporate entity for such period); and
- (3) the company's parent or affiliated company is a listed company in good standing (as evidenced by written representation from the company or its financial advisor excluding that portion of the balance sheet attributable to the new entity); and
- (4) the company's parent or affiliated company retains control of the entity or is under common control with the entity.

In the case of companies listing in connection with an IPO or an Initial Firm Commitment Underwritten Public Offering, the company's underwriter (or, in the case of a spin-off, the parent company's investment banker or other financial advisor) must provide a written representation that demonstrates the company's ability to meet the \$500,000,000 global market capitalization requirement based upon the completion of the offering (or distribution).

Generally, the Exchange expects to list companies in connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off. However, the Exchange recognizes that some companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement filed solely for the purpose of allowing existing shareholders to sell their shares. Consequently, the Exchange will, on a case by case basis, exercise discretion to list companies whose stock is not previously registered under the Exchange Act, where such a company is listing without a related underwritten offering upon effectiveness of a registration statement registering only the resale of shares sold by the company in earlier private placements. In such cases, the Exchange will determine that the company has met the global market capitalization value requirement based on a combination of both (i) an independent third-party valuation (a "Valuation") of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a

registered broker-dealer (a "Private Placement Market"). The Exchange will list a company using this approach only if it determines that such company has a global market capitalization of \$600,000,000. The Exchange will attribute a global market capitalization to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market. Any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. The Exchange will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. In particular, the Exchange will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent with a sustained history over that several month period evidencing a market value in excess of the Exchange's market value requirement. The Exchange may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

"Control" for purposes of the Affiliated Company Test will mean having the ability to exercise significant influence over the operating and financial policies of the listing company, and will be presumed to exist where the parent or affiliated company holds 20% or more of the listing company's voting stock directly or indirectly. Other indicia that may be taken into account when determining whether control exists include board representation, participation in policy making processes, material intercompany transactions, interchange of managerial personnel, and technological dependency. The Affiliated Company Test is taken from and intended to be consistent with generally accepted accounting principles regarding use of the equity method of accounting for an investment in common stock.

OR

IV) Assets and Equity] Global Market Capitalization Test*

[(i) a] At least \$[150,000,000]200,000,000 in global market capitalization.**[; and

(ii) at least \$75,000,000 in total assets together with at least \$50,000,000 in stockholders' equity, in each case as adjusted pursuant to Sections 102.01C(I)(3)(a) and (b) as applicable.]

* Acquisition companies (as such term is defined in Section 102.06) are not permitted to list under the [Assets and Equity] Global Market Capitalization Test. Such companies will only be listed if they meet the requirements of Section 102.06.

** In considering the listing under the [Assets and Equity] Global Market Capitalization Test of current publicly-traded companies [transferring from other markets], the Exchange will require such companies to meet the minimum \$200,000,000 global market capitalization requirement and maintain a closing price of at least \$4 per share in each case for a period of at least 90 consecutive trading days prior to receipt of clearance to make application to list on the Exchange and will also consider whether the company's business prospects and operating results indicate that the company's market capitalization value is likely to be sustained or increase over time.

In the case of companies listing in connection with an IPO or an Initial Firm Commitment Underwritten Public Offering, the company's underwriter (or, in the case of a spin-off, the parent company's investment banker or other financial advisor) must provide a written representation that demonstrates the company's ability to meet the [\$150,000,000]200,000,000 global market capitalization requirement based upon the completion of the offering (or distribution).

[Generally, the Exchange expects to list companies in connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off. However, the Exchange recognizes that some companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement filed solely for the purpose of allowing existing shareholders to sell their shares. Consequently, the Exchange will, on a case by case basis, exercise discretion to list companies whose stock is not previously registered under the Exchange Act, where such a company is listing without a related underwritten offering upon effectiveness of a registration statement registering only the resale of shares sold by the company in earlier private placements. In such cases, the Exchange will determine that the company has met the global market capitalization value requirement based on a combination of both (i) an independent third-party valuation (a "Valuation") of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a "Private Placement Market"). The Exchange will list a company under the Assets and Equity Test using this approach only if it determines that such company has a global market capitalization of \$180,000,000. The Exchange will attribute a global market capitalization to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market. Any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along

with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. The Exchange will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. In particular, the Exchange will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent with a sustained history over that several month period evidencing a market value in excess of the Exchange's market value requirement. The Exchange may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.]

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