

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80030; File No. SR-NYSE-2017-02)

February 13, 2017

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Section 902.02 of the New York Stock Exchange LLC Listed Company Manual to Waive the First Partial Year's Annual Fees for Companies Transferring from Other Exchanges

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 31, 2017, 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, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Section 902.02 of the NYSE Listed Company Manual (the “Manual”) to provide a waiver of annual fees in relation to the first partial year of listing for companies transferring from another national securities exchange. 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.

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 Section 902.02 of the Manual to provide a waiver of annual fees in relation to the first partial year of listing for companies transferring their primary class of common shares from another national securities exchange.

Section 902.02 currently provides that companies transferring their listing from another national securities exchange must pay prorated annual fees in relation to the first partial year that they are listed on the Exchange. However, Section 902.02 provides that companies transferring their primary class of common shares from NYSE Arca and NYSE MKT are not required to pay any annual fee for their first part year of listing after transferring for their primary class of common shares or any class of securities transferred in conjunction therewith. The Exchange believes that it is fairer and more consistent to treat all companies transferring from another market the same for fee purposes and therefore proposes to amend Section 902.02 to provide that all companies transferring from any other national securities exchange should benefit from an annual fee waiver for their first partial year of listing. In addition, the Exchange notes that companies transferring in mid-year will already have paid listing fees for that year to the

exchange on which they were previously listed and that the double payment the Exchange's prorated annual fee imposes on them imposes a significant financial burden and acts as a disincentive to transferring. The Exchange does not believe that this waiver will have any effect on its ability to properly fund its regulatory activities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act,⁴ in general, and furthers the objectives of Sections 6(b)(4)⁵ of the Exchange Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges and is not designed to permit unfair discrimination among its members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange 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 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 Exchange believes that the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Exchange Act in that it represents an equitable allocation of fees and does not unfairly discriminate among listed companies. In particular, the Exchange believes the proposal represents an equitable allocation of fees and is not unfairly discriminatory because the proposed amendment will enable all companies transferring from any other national securities exchange to benefit from the same waiver with respect to annual fees for their first partial year of listing and

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

not just those transferring from NYSE Arca and NYSE MKT, as is currently the case. The Exchange believes that the proposed waiver is not unfairly discriminatory with respect to companies that are already listed, because it is narrowly designed to address the fact that companies transferring from other markets have already paid annual listing fees at their predecessor market and would otherwise have an unusually large aggregate listing fee burden in their first partial year of listing. The Exchange also expects the effect of the proposed waiver to be small, as it is limited to the first part year of a transfer company's listing and a relatively small number of companies transfer to the Exchange in any year. Due to the very limited anticipated loss of revenue associated with the proposed waiver, the Exchange does not expect the proposed fee waiver to affect its ability to devote the same level of resources to its oversight of the companies that benefit from the waiver as it does for other listed companies or, more generally, impact its resource commitment to its regulatory oversight of the listing process or its regulatory programs.

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. The proposed rule change is designed to enable all companies transferring from any other national securities exchange to benefit from the same waiver with respect to annual fees for their first partial year of listing and not just those transferring from NYSE Arca and NYSE MKT, as is currently the case. The market for listings is extremely competitive. Each listing exchange has a different fee schedule that applies to issuers seeking to list securities on its exchange. Issuers have the option to list their securities on these alternative venues based on the fees charged and the value provided by each listing. Because issuers have a choice to list their securities on a

different national securities exchange, the Exchange does not believe that the proposed fee change imposes a burden 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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁶ of the Act and subparagraph (f)(2) of Rule 19b-4⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)⁸ 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:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(2).

⁸ 15 U.S.C. 78s(b)(2)(B).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2017-02 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2017-02. 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 such 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-2017-02, 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.⁹

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Assistant Secretary

⁹ 17 CFR 200.30-3(a)(12).