

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81531; File No. SR-NYSE-2017-43)

September 5, 2017

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Delay the Implementation of its Recently Approved Rule Requiring Listed Companies to Provide Advance Notice of Dividend or Stock Distribution Announcements to the Exchange

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on August 29, 2017, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On August 29, 2017, the Exchange filed Amendment No. 1 to the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of its recently approved rule requiring listed companies to provide notice to the Exchange at least 10 minutes before making any public announcement with respect to a dividend or stock distribution in all cases.⁴ The

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ The Exchange previously filed a proposed rule change to delay the implementation of its recently approved rule requiring listed companies to provide notice to the Exchange at least 10 minutes before making any public announcement with respect to a dividend or stock distribution in all cases. See SR-NYSE-2017-43 (August 22, 2017). This Amendment No. 1 replaces and supersedes the original filing of SR-NYSE-2017-43 in its entirety.

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.

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

On August 14, 2017, the Commission approved changes to the NYSE Listed Company Manual (the “Manual”) that require listed companies to provide notice to the Exchange at least 10 minutes before making any public announcement with respect to a dividend or stock distribution in all cases, including outside of the hours in which the Exchange’s immediate release policy is in operation.⁵ The principal effect of this amendment is to require listed companies to provide 10 minutes advance notice to the Exchange with respect to a dividend or stock distribution announcement made at any time, rather than just during the hours of operation of the immediate release policy as is currently the case.⁶

⁵ See Securities Exchange Act Release No. 81393 (August 14, 2017) (SR-NYSE-2017-17).

⁶ The Exchange also amended Section 202.06(B) of the Manual to emphasize the Exchange’s consistent interpretation of that rule as requiring listed companies to comply with the immediate release policy with respect to all announcements relating to a dividend or stock distribution.

Because listed companies may need to change their internal procedures to comply with the new policy and because the Exchange requires additional time to finalize its implementation of new technology changes and processes to effectively perform this function, the Exchange proposes to delay the final implementation date of the changes.⁷ This delay would provide listed companies with additional time to prepare to comply with the new requirements and for the Exchange's systems to provide the necessary support to Exchange staff in reviewing notifications. The Exchange will provide reasonable advance notice of the new implementation date to its listed companies at least 30 days in advance by emailing a notice to them that will also be posted on nyse.com. The new implementation date will be no later than February 1, 2018.

The Exchange proposes to amend Section 204.12 of the Manual to include two versions of the first paragraph of such section. Version A of such paragraph will include the rule text in effect prior to the Commission's August 14, 2017 approval of the Exchange's proposed revision.⁸ Version B of such paragraph will include the amended rule text approved by the Commission on August 14, 2017.⁹ The Exchange proposes to include a header above each paragraph stating that (i) Version A will remain operative until the Exchange notifies listed

⁷ The original filing also included an amendment to Section 202.06(B). As this amendment was a clarification of an existing interpretation of that section, the Exchange does not propose to delay its implementation.

⁸ The following is the text of Version A:

Prompt notice will be given to the Exchange as to any dividend action or action relating to a stock distribution in respect of a listed stock (including the omission or postponement of a dividend action at the customary time as well as the declaration of a dividend). Such notice is in addition to immediate publicity and should be given at least ten days in advance of the record date. The dividend notice should be given to the Exchange in accordance with Section 204.00. Notice should be given as soon as possible after declaration and in any event, no later than simultaneously with the announcement to the news media. The notice should include:

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⁹ See Footnote 4 [sic] above.

companies that Version B is operative and (ii) Version B will be operative on February 1, 2018 or such earlier date as the Exchange notifies listed companies that Version B is operative.

The Exchange proposes to amend Section 204.21 of the Manual to include two versions of the first paragraph of such section. Version A of such paragraph will include the rule text in effect prior to the Commission's August 14, 2017 approval of the Exchange's proposed revision.¹⁰ Version B of such paragraph will include the amended rule text approved by the Commission on August 14, 2017.¹¹ The Exchange proposes to include a header above each paragraph stating that (i) Version A will remain operative until the Exchange notifies listed companies that Version B is operative and (ii) Version B will be operative on February 1, 2018 or such earlier date as the Exchange notifies listed companies that Version B is operative.

2. Statutory Basis

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

¹⁰ The following is the text of Version A:

Prompt notice is required to be given to the Exchange of the fixing of a date for the taking of a record of shareholders, or for the closing of transfer books (in respect of a listed security), for any purpose. The notice should state the purpose or purposes for which the record date has been fixed. This notice should be provided to the Exchange in accordance with Section 204.00.

¹¹ See Footnote 4 [sic] above.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed amendment is consistent with the protection of investors and the public interest because it will ensure an orderly and effective implementation of the Exchange's new dividend and stock distribution notification policy.

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 purpose of the proposal is to delay the effectiveness of the Exchange's new dividend and stock distribution notification policy to give the Exchange staff and listed companies additional time to prepare for compliance with the new policy and it will not have any effect 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

Because the foregoing 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 filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁵

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the 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 Commission has determined to waive the five-day pre-filing period in this case.

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 asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In support of the request, the Exchange states that waiver of the 30-day operative delay will enable the Exchange to avoid any potential confusion that might be caused to listed companies if the new advance notice requirement for dividend or stock distribution announcements to the Exchange was in effect prior to this proposal becoming operative.

Based on the above, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because, as noted above, the Exchange cannot currently process the advance notifications in accordance with the requirements of the newly adopted rule until it finalizes implementation of new technology and processes. As a result, waiver of the 30-day operative delay, consistent with the protection of investors and the public interest, will provide listed companies immediate transparency on the rules they need to follow in providing notification to the Exchange on public announcements concerning dividend and stock distributions until such time as the Exchange makes the necessary changes to process the notifications in accordance with the newly adopted rules. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing with the Commission.¹⁸

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 also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 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, as modified by Amendment No. 1, 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-NYSE-2017-43 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-NYSE-2017-43. 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 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-2017-43, 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

Eduardo A. Aleman
Assistant Secretary

¹⁹ 17 CFR 200.30-3(a)(12).