

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88441; File No. SR-NYSE-2020-21)

March 20, 2020

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Suspend Until June 30, 2020 the Application of Its Continued Listing Requirement With Respect to Global Market Capitalization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 19, 2020, New York Stock Exchange LLC (“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 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 suspend until June 30, 2020 the application of its continued listing requirement that companies must maintain an average global market capitalization over a consecutive 30 trading-day period of at least \$15 million (the “Market Capitalization Standard”). 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.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 U.S. and global equities markets have experienced unprecedented market-wide declines as a result of the ongoing spread of COVID-19. As a consequence, since the commencement of the current market turbulence in the last week of February 2020, the Exchange has experienced an unusually high number (as compared to historical levels) of listed companies that are in imminent danger of immediate suspension and delisting under Section 802.01B of the Manual for failure to comply with the Market Capitalization Standard³.

In response to the conditions described above, the Exchange proposes to suspend, until June 30, 2020, the application of the Market Capitalization Standard. The extreme volatility and the precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets could lead to a high number of securities being immediately suspended from trading and delisted during a short period of highly volatile markets. The proposed suspension of the Market Capitalization Standard until June 30, 2020 will provide temporary relief to these companies and their shareholders in response to these extraordinary market conditions.

³ Section 802.01B of the Manual states that “the Exchange will promptly initiate suspension and delisting procedures with respect to a company (including the issuer of an Equity Investment Tracking Stock) that is listed under any financial standard set out in Sections 102.01C or 103.01B if a company is determined to have average global market capitalization over a consecutive 30 trading-day period of less than \$15,000,000, regardless of the original standard under which it listed. A company is not eligible to follow the procedures outlined in Sections 802.02 and 802.03 with respect to this criterion.”

Currently, when a company is identified as being noncompliant with the Market Capitalization Standard, trading in its securities is immediately suspended and the company is subject to delisting. Such a company that is noncompliant with the Market Capitalization Standard is not eligible to submit a plan to regain compliance pursuant to Sections 802.02 and 802.03 of the Manual. However, while its securities are suspended from trading, such company may appeal its delisting to a Committee of the Board of Directors of the Exchange. The proposed suspension of the Market Capitalization Standard will not affect the status of any company that has been formally notified for noncompliance with the Market Capitalization Standard and is currently in the Exchange's delisting appeal process prior to the date of this filing.

Instead, under the proposed suspension of the Exchange's Market Capitalization Standard, companies would not be notified of new events of noncompliance with the Market Capitalization Standard during the suspension period⁴. Following the temporary rule suspension, any new events of noncompliance with the Exchange's Market Capitalization Standard would be determined based on a consecutive 30 trading-day period commencing on or after July 1, 2020.

The Exchange would be able to implement the proposed rule change immediately upon effectiveness of this proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to

⁴ A company would continue to be subject to delisting for failure to comply with other listing requirements.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 the public interest and the interests of investors, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a result of uncertainty related to the ongoing spread of the COVID-19 virus, the prices of securities listed on U.S. exchanges are experiencing rapid and significant declines. The proposed rule change is designed to reduce 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. All companies listed on the Exchange that fall below the Market Capitalization Standard as of the time of filing of this proposal would be eligible to take advantage of the proposed suspension of the Market Capitalization Standard.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to reduce uncertainty for certain companies and their shareholders regarding the ability of certain securities to remain listed on the NYSE during the current highly unusual market conditions.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ Because the 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 prior to 30 days from the date on which it was filed, 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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² the Commission may 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 proposed rule change may become operative immediately upon filing.

The Exchange stated that the proposed rule change is designed to respond to the unprecedented uncertainty and resulting market declines related to the global spread of the COVID-19 virus. In support of its request to waive the 30-day operative delay, the Exchange

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 as designated by the Commission. The Commission has waived the five business day notification requirement for this proposed rule change.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

stated that the markets have already triggered four Level 1 Market Wide Circuit Breaker Halts in one week, which is unprecedented. According to the Exchange, given the ongoing uncertainty relating to the global spread of the COVID-19 virus, the Exchange has no way of knowing whether there will be additional market declines that would result in large numbers of companies unexpectedly falling below the Market Capitalization Standard in the immediate future. The Exchange stated that if that were to occur, such companies would be subject to immediate suspension and delisting. The proposal would suspend, until June 30, 2020, the application of the Market Capitalization Standard for all listed companies that fall below this standard on or after the effective date of this filing. The Exchange stated that waiver of the 30-day operative delay would avoid the immediate suspension and delisting of companies falling below the Market Capitalization Standard as of a result of these unprecedented market conditions, and reduce the level of uncertainty of listed issuers and their investors with respect to their continued listing status. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹³

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

¹³ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁴ 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2020-21 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-2020-21. 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

¹⁴ 15 U.S.C. 78s(b)(2)(B).

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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2020-21, 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.¹⁵

J. Matthew DeLesDernier
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).