



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77210; File No. SR-NYSEMKT-2016-27]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Sections 1206 and 1212T of the NYSE MKT Company Guide

February 23, 2016

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 February 17, 2016, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) 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. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6)(iii) thereunder,⁵ which renders it effective upon filing with the Commission. 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 Sections 1206 and 1212T of the NYSE MKT Company

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6)(iii).

Guide (the “Company Guide”) to delete an outdated reference. 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 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 recently established a Committee for Review (“CFR”) as a sub-committee of the Regulatory Oversight Committee.⁶ As approved, the CFR was the successor to, among others, the Committee on Securities, a committee of the Exchange board of directors that reviews determinations to limit or prohibit the continued listing of an issuer’s securities on the Exchange. In connection with this filing, the Exchange made conforming amendments to Sections 1206 and 1212T of the Company Guide, among others, to replace references to the “Committee on Securities” with “Committee for Review.” As a result, two conforming references to a “Committee on Securities Council” became references to a “Committee for Review Council.”⁷ More specifically, prior to the recent amendment, Section 1206 referred to a “Committee on

⁶ See Securities Exchange Act Release No. 77008 (February 1, 2016) (SR-NYSEMKT-2015-106).

⁷ See Securities Exchange Act Release No. 76638 (December 14, 2015), 80 FR 79117 (SR-NYSEMKT-2015-106).

Securities Council.” As recently amended, Section 1206 of the Company Guide describes the process for discretionary review by the Exchange board of directors of delisting decisions of the Committee for Review, and provides that the board of directors may, among other things, “remand the matter to the Committee for Review Council, Panel, or Staff with appropriate instructions.”⁸

Similarly, prior to the recent amendment, Section 1212T referred to a “Committee on Securities Council.” Section 1212T governs certain legacy listing applications, and provides for a discretionary review by the Exchange’s board of directors of Committee for Review determinations not to approve an issuer’s listing application.⁹ The amended language provides that a discretionary review by the Exchange board of directors can be, among other things, remanded to the “Committee for Review Council, Panel, or Staff with appropriate instructions.”¹⁰

The Exchange proposes to amend Section 1206(d) and 1212T(h)(ii) to delete the outdated reference to “Council” in both rules. The Exchange currently does not have a constituted body known as the Committee for Review Council, and did not have a Committee on Securities Council prior to the recent amendment. The reference that was in the rules to a Committee on Securities Council is a legacy reference pre-dating the acquisition of the American Stock Exchange by the NYSE in 2008.¹¹

The use of “Council” in Sections 1206 and 1212T is accordingly obsolete. A remand by the Exchange board of directors under either Section 1206(d) or 1212T(h)(ii) prior to the

⁸ See Company Guide, Section 1206(e).

⁹ See Company Guide, Section 1212T(h).

¹⁰ See *id.* at (h)(ii).

¹¹ See, e.g., Securities Exchange Act Release No. 53398 (March 2, 2006), 71 FR 12738 (SR-Amex-2005-107).

amendments could only have been to the Committee on Securities Panel making the contested determination or Exchange staff, and a remand under the proposed revised rules would only be to the Committee for Review Panel making the contested determination or to Exchange staff. The Exchange is, therefore, proposing to delete the outdated reference to “Council.”

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act¹² in general, and with Section 6(b)(5)¹³ in particular, in that it is designed to 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, help to protect investors and the public interest. Specifically, the Exchange believes that replacing outdated references to the Committee for Review “Council” removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete references in the Exchange’s rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange’s jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange’s rulebook. The Exchange believes that eliminating obsolete references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange’s rules.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

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 not intended to address competitive issues but rather to delete obsolete references, thereby increasing transparency, reducing confusion, and making the Exchange's rules easier to understand and navigate.

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 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 Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to

¹⁴ 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 Exchange has satisfied this requirement.

¹⁵ 17 CFR 240.19b-4(f)(6).

Rule 19b4(f)(6)(iii),¹⁶ 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 proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is appropriate because the proposed rule change will reduce confusion and add clarity to the Company Guide without delay. Based on the foregoing, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest.¹⁷ The Commission hereby grants the waiver and designates the proposal operative upon filing.

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)¹⁸ 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:

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ 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).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

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-NYSEMKT-2016-27 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-NYSEMKT-2016-27. 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-NYSEMKT-2016-27 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

Robert W. Errett,

Deputy Secretary.

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¹⁹ 17 CFR 200.30-3(a)(12).

