

available for Web site 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 Nasdaq. 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-NASDAQ-2014-045 and should be submitted on or before June 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72147; File No. SR-NYSE-2014-24]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Section 902.02 of the Listed Company Manual To Modify How It Calculates Annual Fees for Certain Issuers in Their First Year of Listing on the Exchange Which Will Result in Large Issuers Receiving a Reduction in Their First Year's Annual Fee That Is Proportional to Their Reduced Time Listed on the Exchange

May 12, 2014.

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 May 6, 2014, 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, 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 Listed Company Manual (the "Manual") to modify how it calculates annual fees for certain issuers in their first year of listing on the Exchange. Such modification will result in large issuers receiving a reduction in their first year's annual fee that is proportional to their reduced time listed on the Exchange. The text of the proposed rule change is available on the Exchange's Web site 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 proposes to amend Section 902.02 of the Manual to modify how it calculates annual fees for certain issuers in their first year of listing on the Exchange. Such modification will result in large issuers receiving a reduction in their first year's annual fee that is proportional to their reduced time listed on the Exchange.

Pursuant to Section 902.02 of the Manual, listed companies are charged an annual fee for each class or series of security listed on the Exchange. The annual fee is calculated based on the number of shares issued and outstanding, including treasury stock and restricted stock.⁴ In its first year of listing, a company's annual fee is prorated from the date of initial listing through the year end.

Listed companies also pay other fees to the Exchange, including fees associated with initial and

supplemental listing applications. In any given calendar year, however, Section 902.02 of the Manual specifies that the total fees that the Exchange may bill a listed company are capped at \$500,000 (the "Total Maximum Fee"). Therefore, a large company with a significant number of shares outstanding whose annual fee would otherwise exceed \$500,000 will only be billed the Total Maximum Fee for that year. Similarly, a company whose annual fee is below \$500,000 will only incur additional fees (with respect to supplemental listing applications, for example) up to the Total Maximum Fee.

As noted above, the Exchange prorates an [sic] company's annual fee in its first year of listing. Currently, the Exchange determines a newly listed company's prorated annual fee by calculating what the company's annual fee would be if it were listed for the entire calendar year and then charging only that percentage that corresponds to the period from the date of initial listing through the year end. If a listed company's prorated annual fee exceeds \$500,000 it is only charged that portion of the annual fee that, when aggregated with any other fees it has already been billed by the Exchange, brings it to the Total Maximum Fee, and it will not incur any additional fees during the calendar year. If a company's prorated annual fee is below \$500,000 it would pay the full amount of such prorated annual fee and continue to incur additional fees until it hits the Total Maximum Fee.

By way of example, assume Company A lists on the Exchange on July 1. If Company A had been listed on the Exchange for the entire calendar year, its annual fee would be \$2,000,000. Because it will be listed for only six months, however, Company A's annual fee is prorated to \$1,000,000. Under its current policy, the Exchange then applies the Total Maximum Fee and bills Company A only \$500,000 of its prorated annual fee. Because Company A has hit the Total Maximum Fee, it will not incur any additional fees (with respect to supplemental listing applications, for example) during that calendar year.

Assume Company B also lists on the Exchange on July 1. If Company B had been listed on the Exchange for the entire calendar year, its annual fee would be \$800,000. Because it will be listed for only six months, however, Company B's annual fee is prorated to \$400,000. Under the Exchange's current policy, Company B will be billed the \$400,000 prorated annual fee and will continue to incur additional fees (with respect to supplemental listing

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ Currently, the annual fee for a listed company's primary class of common shares is \$0.00093 per share, subject to a minimum total annual fee of \$42,000.

applications, for example) until it hits the Total Maximum Fee.

Assume Company C also lists on the Exchange on July 1. If Company C had been listed on the Exchange for the entire calendar year, its annual fee would be \$400,000. Because it will be listed for only six months, however, Company C's annual fee is prorated to \$200,000. Company C will be billed the \$200,000 prorated annual fee and will continue to incur additional fees (with respect to supplemental listing applications, for example) until it hits the Total Maximum Fee.

Because the Exchange has the Total Maximum Fee that it may charge listed companies in any given calendar year, the Exchange proposes to amend the manner in which it calculates a prorated annual fee during a company's first year of listing. Instead of using a company's actual annual fee (calculated on a per share basis) for purposes of calculating a company's prorated annual fee and then reducing it to the Total Maximum Fee as applicable, the Exchange proposes to use the lesser of an issuer's annual fee and the Total Maximum Fee as the starting point and prorate that figure for the period of time a company is listed on the Exchange during its first year.

Returning to the examples above and giving effect to the Exchange's proposed policy, assume Company A lists on the Exchange on July 1. If Company A had been listed on the Exchange for the entire calendar year, its annual fee would be \$2,000,000. Because of the Total Maximum Fee, however, the most Company A can be billed in any calendar year is \$500,000. The Exchange therefore will prorate the Total Maximum Fee and bill Company A an annual fee of \$250,000 for the six months it is listed on the Exchange in that first year. Company A will continue to incur additional fees (with respect to supplemental listing applications, for example) until it hits the Total Maximum Fee.

Assume Company B also lists on the Exchange on July 1. If Company B had been listed on the Exchange for the entire calendar year, its annual fee would be \$800,000. Because of the Total Maximum Fee, however, the most Company B can be billed in any calendar year is \$500,000. Under its proposed new policy, therefore, the Exchange will prorate the Total Maximum Fee and bill Company B an annual fee of \$250,000 for the six months it is listed on the Exchange in that first year. Company B will continue to incur additional fees (with respect to supplemental listing applications, for

example) until it hits the Total Maximum Fee.

Assume Company C also lists on the Exchange on July 1. If Company C had been listed on the Exchange for the entire calendar year, its annual fee would be \$400,000. Because Company C's annual fee is less than the Total Maximum Fee, its prorated annual fee will be calculated based on the entire \$400,000. Accordingly, Company C's annual fee will be prorated to \$200,000 for the six months it is listed on the Exchange. Company C will continue to incur additional fees (with respect to supplemental listing applications, for example) until it hits the Total Maximum Fee.

The Exchange believes this proposed rule change more fairly and equitably allocates listing fees because it would provide a pro rata annual fee to all listed companies. Under the Exchange's current rules, a large company whose prorated annual fee exceeds the Total Maximum Fee still pays the Total Maximum Fee even though it is only listed for a portion of a calendar year. That same large company will pay the exact same annual fee during its second year of listing when it is listed for a full twelve months. The Exchange believes that the proposed rule change appropriately recognizes that a company should pay a reduced annual fee in its first year of listing when it is only listed for a portion of such year. Accordingly, the proposed rule change further [sic] the Exchange's goal of proportionately allocating fees among listed companies.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Sections 6(b)(4)⁶ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges 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)⁷ of the Act in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it is reasonable to modify the way in which it calculates a listed company's prorated annual fee in its first year of listing. The Exchange's current practice results in certain large issuers paying the same annual fee during their first year of listing (when they may only be listed for

a portion of the year) and their second year of listing (when they are listed for the entire twelve months). The Exchange's proposed rule change will result in large issuers receiving a reduction in their first year's annual fee that is proportional to their reduced time listed on the Exchange. The Exchange believes such reduction results in a more equitable allocation of fees. The proposed rule change is not designed to permit unfair discrimination because all issuers listed on the exchange will now be entitled to pay a pro rata annual fee in their first year of listing.

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 Act. The proposed change simply modifies the way in which the Exchange calculates prorated annual fees for certain large issuers that are listed for less than an entire year. Such modification will result in large issuers receiving a reduction in their first year's annual fee that is proportional to their reduced time listed on the Exchange. The proposed rule change ensures that the Exchange has fair billing practices and can effectively compete for listings. Accordingly, the Exchange does not believe that the proposed change will impose any 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)⁸ of the Act and subparagraph (f)(2) of Rule 19b-4⁹ 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) ¹⁰ 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 email to rule-comments@sec.gov. Please include File Number SR-NYSE-2014-24 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-2014-24. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 NYSE. 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-

2014-24, and should be submitted on or before June 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72148; File No. SR-NYSEMKT-2014-43]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List To Account for Recent Changes to the Securities Eligible To Be Traded on the Exchange Pursuant to a Grant of Unlisted Trading Privileges

May 12, 2014.

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 April 29, 2014, 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, 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 its Price List to account for recent changes to the securities eligible to be traded on the Exchange pursuant to a grant of unlisted trading privileges ("UTP"). The Exchange proposes to implement the fee change effective May 5, 2014. The text of the proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, on the Commission's Web site at www.sec.gov, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to account for recent changes to the securities eligible to be traded on the Exchange pursuant to UTP. The Exchange proposes to implement the fee change effective May 5, 2014.

Securities traded on the Exchange pursuant to UTP are subject to a pilot program (the "UTP Pilot Program") set forth in the 500 series rules.⁴ The current UTP Pilot Program is limited to securities listed on the Nasdaq Stock Market, LLC ("Nasdaq Securities") and includes only a single Exchange Traded Fund ("ETF"), the Invesco PowerShares QQQ™ (the "QQQ™").⁵

The Exchange recently submitted a proposal for immediate effectiveness to expand the UTP Pilot Program to permit additional securities beyond Nasdaq Securities to be traded on the Exchange pursuant to UTP.⁶ In addition to Nasdaq Securities, the new definition of "UTP Securities" would include certain "Exchange Traded Products" ("ETPs"), including ETFs;⁷ Exchange Traded

⁴ See Securities Exchange Act Release No. 62479 (July 9, 2010), 75 FR 41264 (July 15, 2010) (SR-NYSEAmex-2010-31).

⁵ The UTP Pilot Program is currently scheduled to expire on the earlier of Securities and Exchange Commission ("Commission") approval to make the pilot permanent or July 31, 2014. See Securities Exchange Act Release No. 71363 (January 21, 2014), 79 FR 4373 (January 27, 2014) (SR-NYSEMKT-2014-01).

⁶ See Securities Exchange Act Release No. 71952 (April 16, 2014), 79 FR 22558 (April 22, 2014) (SR-NYSEMKT-2014-32).

⁷ An ETF is an open-end management investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the Commission to allow secondary market trading in the ETF shares. An ETF typically holds a portfolio of securities that is intended to provide results that, before fees and expenses, generally correspond to the price and yield performance of an underlying benchmark index or an investment

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¹⁰ 15 U.S.C. 78s(b)(2)(B).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.