

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

**Rules of BATS Exchange, Inc.**

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**CHAPTER XI. BATS EXCHANGE LISTING RULES**

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Rule 14.10. Corporate Governance Requirements.

(a) – (b) No change.

(c) Board of Directors and Committees

(1) Definitions

(A) No change.

(B) “Independent Director” means a person other than an Executive Officer or employee of the Company or any other individual having a relationship which, in the opinion of the Company’s board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. For purposes of this rule, “Family Member” means a person’s spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person’s home. The following persons shall not be considered independent:

(i) – (vii) No change.

In addition to the requirements contained in this Rule 14.10(c)(1)(B), directors of a Company that are acting in the capacity described in Rule 14.10(c)(4)(B) (relating to compensation of Executive Officers) are also subject to additional factors for determining independence under Rule 14.10(c)(4).

(2) – (3) No change.

(4) Independent Director Oversight of Executive Officer Compensation

(A) Composition

(i) In addition to meeting the criteria listed under Rule 14.10(c)(1)(B), in evaluating the independence of a director to determine if such director is permitted to act in the capacity described in Rule

14.10(c)(4)(B), the board of directors of a Company shall consider the following factors:

(a) The source of compensation of the director, including any consulting, advisory or other compensatory fee paid by the Company to such director; and

(b) Whether the director is affiliated with the Company, a subsidiary of the Company, or an affiliate of a subsidiary of the Company.

(B) Determination of Compensation of Executive Officers

[(A)] (i) Compensation of the chief executive officer of the Company must be determined, or recommended to the Board for determination, either by:

[(i)] (a) Independent Directors constituting a majority of the Board's Independent Directors in a vote in which only Independent Directors participate; or

[(ii)] (b) a compensation committee comprised solely of Independent Directors.

The chief executive officer may not be present during voting or deliberations.

[(B)] (ii) Compensation of all other Executive Officers must be determined, or recommended to the Board for determination, either by:

[(i)] (a) Independent Directors constituting a majority of the Board's Independent Directors in a vote in which only Independent Directors participate; or

[(ii)] (b) a compensation committee comprised solely of Independent Directors.

[(C) Non-Independent Committee Member under Exceptional and Limited Circumstances

Notwithstanding paragraphs (A)(ii) and (B)(ii) above, if the compensation committee is comprised of at least three members, one director who is not independent as defined in Rule 14.10(c)(1)(B) and is not a current officer or employee or a Family Member of an officer or employee, may be appointed to the compensation committee if the board, under exceptional and

limited circumstances, determines that such individual's membership on the committee is required by the best interests of the Company and its Shareholders. A Company that relies on this exception must disclose either on or through the Company's website or in the proxy statement for the next annual meeting subsequent to such determination (or, if the Company does not file a proxy, in its Form 10-K or 20-F), the nature of the relationship and the reasons for the determination. In addition, the Company must provide any disclosure required by Instruction 1 to Item 407(a) of Regulation S-K regarding its reliance on this exception. A member appointed under this exception may not serve longer than two years.]

(C) Compensation Consultants

(i) The compensation committee of a Company, in its capacity as a committee of the Company's board of directors may, in its sole discretion, retain or obtain the advice of a compensation consultant, independent legal counsel, or other adviser. The Company must provide for appropriate funding, as determined by the compensation committee, for payment of reasonable compensation to a compensation consultant, independent legal counsel, or any other adviser retained by the compensation committee.

(ii) Independent Directors of a Company that are acting in the capacity described in Rule 14.10(c)(4)(B) (whether or not acting as a committee of the Company's board of directors) or, for those Companies that are exempt from Rule 14.10(c)(4)(A) and (B), directors responsible for determining executive officer compensation, may select a compensation consultant, legal counsel, or other adviser only after performing an independence assessment, as described below. An independence assessment is not required for the receipt of advice from in-house legal counsel. An independence assessment shall include a consideration of the following factors:

(a) The provision of other services to the Company by the person that employs the compensation consultant, legal counsel, or other adviser;

(b) The amount of fees received from the Company by the person that employs the compensation consultant, legal counsel, or other adviser, as a percentage of the total revenue of the person that employs the compensation consultant, legal counsel, or other adviser;

(c) The policies and procedures of the person that employs the compensation consultant, legal counsel, or other adviser that are designed to prevent conflicts of interest;

(d) Any business or personal relationship of the compensation consultant, legal counsel, or other adviser with any of the Independent Directors acting in the capacity described in Rule 14.10(c)(4)(B);

(e) Any stock of the Company owned by the compensation consultant, legal counsel, or other adviser; and

(f) Any business or personal relationship of the compensation consultant, legal counsel, other adviser, or the person employing the adviser with an executive officer of the Company.

(iii) The Independent Directors of a Company that are acting in the capacity described in Rule 14.10(c)(4)(B) shall be directly responsible for the appointment, compensation and oversight of the work of any compensation consultant, independent legal counsel or other adviser retained by such Independent Directors.

(iv) The Independent Directors of a Company that are acting in the capacity described in Rule 14.10(c)(4)(B) are not required to implement or act consistently with the advice or recommendations of the compensation consultant, independent legal counsel or other adviser retained by such Independent Directors, nor are such Independent Directors restricted in their ability or obligation to exercise their own judgment in fulfilling their duties under Rule 14.10(c)(4).

(D) Cure Periods

(i) If a Company fails to comply with the composition committee requirements under Rule 14.10(c)(4)(B) because a director ceases to be independent for reasons outside the director's reasonable control, that director may continue to act in the capacity described in Rule 14.10(c)(4)(B) until the earlier of its next annual shareholders meeting or one year from the occurrence of the event that caused the failure to comply with this requirement. A Company relying on this provision must provide notice to the Exchange immediately upon learning of the event or circumstances that caused the noncompliance.

- (5) No change.
- (d) No change.
- (e) Exemptions from Certain Corporate Governance Requirements

This Rule provides the exemptions from the corporate governance rules afforded to certain types of Companies, and sets forth the phase-in schedules for initial public offerings, Companies emerging from bankruptcy, [and ]Companies transferring from other markets, and Companies listed on the Exchange prior to June 1, 2013. This [rule] Rule also describes the applicability of the corporate governance rules to Controlled Companies and sets forth the phase-in schedule afforded to Companies ceasing to be Controlled Companies.

- (1) Exemptions to the Corporate Governance Requirements

- (A) Asset-backed Issuers and Other Passive Issuers

[The following are exempt from the requirements relating to Majority Independent Board [Rule 14.10(c)(2)(A)], Audit Committee [Rule 14.10(c)(3)], Independent Director Oversight of Executive Officer Compensation and Director Nominations [Rule 14.10(c)(4) and (5)], the Controlled Company Exemption [Rule 14.10(e)(3)(B)], and Code of Conduct [Rule 14.10(d)]:]

The following are exempt from the requirements relating to Majority Independent Board (Rule 14.10(c)(2)(A)), Audit Committee (Rule 14.10(c)(3)), Independent Director Oversight of Director Nominations (Rule 14.10(c)(5)), the Controlled Company Exemption (Rule 14.10(e)(3)(B)), and Code of Conduct (Rule 14.10(d)):

- (i) – (ii) No change.

- (B) Cooperatives

Cooperative entities, such as agricultural cooperatives, that are structured to comply with relevant state law and federal tax law and that do not have a publicly traded class of common stock are exempt from Rules 14.10(c)(2), [14.10(c)(4),] 14.10(c)(5) and 14.10(e)(3)(B). However, such entities must comply with all federal securities laws, including without limitation those rules required by Section 10A(m) of the Act and Rule 10A-3 thereunder.

- (C) Foreign Private Issuers

- (i) A Foreign Private Issuer may follow its home country practice in lieu of the requirements of Rule 14.10, the requirement to distribute annual and interim reports set forth in Rule 14.6(d), and the Direct Registration Program requirement set forth in Rules 14.3(b)(3) and 14.7, provided, however, that such a Company shall: comply with the Notification of Material Noncompliance requirement (Rule 14.10(g)), the

Voting Rights requirement (Rule 14.10(j)), have an audit committee that satisfies Rule 14.10(c)(3)(C), [and] ensure that such audit committee's members meet the independence requirement in Rule 14.10(c)(2), and comply with the Compensation Consultants requirement (Rule 14.10(c)(4)(C)). Except as provided in this paragraph, a Foreign Private Issuer must comply with the requirements of Chapter XIV.

(ii) No change.

(D) Limited Partnerships. A limited partnership is not subject to the requirements of Rule 14.10, except as provided in this paragraph (D). A limited partnership may request a written interpretation pursuant to Rule 14.10(b). No provision of this Rule shall be construed to require any foreign Company that is a partnership to do any act that is contrary to a law, rule or regulation of any public authority exercising jurisdiction over such Company or that is contrary to generally accepted business practices in the Company's country of domicile. The Exchange shall have the ability to provide exemptions from applicability of these provisions as may be necessary or appropriate to carry out this intent.

(i) - (viii) No change.

(ix) Compensation Consultants. A Company that is a limited partnership shall be required to comply with the funding and independence requirements of Rule 14.10(c)(4)(C) regarding Compensation Consultants.

(x) Notification of Noncompliance. Each Company that is a limited partnership must provide the Exchange with prompt notification after an Executive Officer of the Company, or a person performing an equivalent role, becomes aware of any noncompliance by the Company with the requirements of Rule 14.10.

(E) Management Investment Companies. Management investment companies (including business development companies) are subject to all the requirements of Rule 14.10, except that management investment companies registered under the Investment Company Act of 1940 are exempt from the Independent Directors requirement, the Independent Director Oversight of [Executive Officer Compensation and] Director Nominations requirements, and the Code of Conduct requirement, set forth in Rules 14.10(c)(2), [14.10(c)(4),] 14.10(c)(5) and 14.10(d), respectively. In addition, management investment companies that are Index Fund Shares and Managed Fund Shares, as defined in Rules 14.11(c) and 14.11(i), are exempt from the Audit Committee requirements set forth in Rule 14.10(c)(3), except for the applicable requirements of SEC Rule 10A-3. Open-end management investment companies registered under the

Investment Company Act of 1940 are also exempt from the requirements of Rules 14.10(c)(4)(A) and (B).

(F) Companies in Bankruptcy Proceedings. Companies in bankruptcy proceedings are subject to all of the requirements of Rule 14.10, except that Companies in bankruptcy proceedings are exempt from the Independent Director Oversight of Executive Officer Compensation requirements set forth in Rule 14.10(c)(4)(A) and (B).

(G) Smaller Reporting Companies. Smaller reporting companies, as defined in Rule 12b-2 under the Act, are exempt from the Independent Director Oversight of Executive Officer Compensation requirements set forth in Rule 14.10(c)(4).

(2) Phase-In Schedules

(A) *Initial Public Offerings.* A Company listing in connection with its initial public offering shall be permitted to phase in its compliance with the independent committee requirements set forth in Rules 14.10(c)(4)(A) and (B) and 14.10(c)(5) on the same schedule as it is permitted to phase in its compliance with the independent audit committee requirement pursuant to Rule 10A-3(b)(1)(iv)(A) under the Act. Accordingly, a Company listing in connection with its initial public offering shall be permitted to phase in its compliance with the independent committee requirements set forth in Rule 14.10(c)(4)(A) and (B) and 14.10(c)(5) as follows: (1) one independent member at the time of listing; (2) a majority of independent members within 90 days of listing; and (3) all independent members within one year of listing. Furthermore, a Company listing in connection with its initial public offering shall have twelve months from the date of listing to comply with the majority independent board requirement in Rule 14.10(c)(2)(A). It should be noted, however, that pursuant to Rule 10A-3(b)(1)(iii) under the Act investment companies are not afforded the exemptions under Rule 10A-3(b)(1)(iv) under the Act. Companies may choose not to adopt a compensation or nomination committee and may instead rely upon a majority of the Independent Directors to discharge responsibilities under Rule 14.10(c)(2). For purposes of Rule 14.10 other than Rules 14.10(c)(3)(B)(i) and 14.10(g), a Company shall be considered to be listing in conjunction with an initial public offering if, immediately prior to listing, it does not have a class of common stock registered under the Act. For purposes of Rule 14.10(c)(3)(B) and Rule 14.10(g), a Company shall be considered to be listing in conjunction with an initial public offering only if it meets the conditions in Rule 10A-3(b)(1)(iv)(A) under the Act, namely, that the Company was not, immediately prior to the effective date of a

registration statement, required to file reports with the Commission pursuant to Section 13(a) or 15(d) of the Act.

(B) – (C) No change.

(D) Companies Listed Prior to June 1, 2013. A Company listed on the Exchange prior to June 1, 2013 shall be permitted, commencing on June 1, 2013, to phase-in compliance with the Independent Director Oversight of Executive Officer Compensation requirements set forth in Rules 14.10(c)(4)(A) and (B) on the same schedule as Companies listing in conjunction with their initial public offering.

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