

Bank of New York Mellon CORP
Form 8-K
September 18, 2012

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 12, 2012

THE BANK OF NEW YORK MELLON CORPORATION

(Exact Name of Registrant as Specified In Its Charter)

Delaware
(State or other jurisdiction
of incorporation)

000-52710
(Commission
File Number)

13-2614959
(I.R.S. Employer
Identification No.)

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One Wall Street, New York, New York
(Address of principal executive offices)
(212) 495-1784

10286
(Zip Code)

(Registrant's telephone number, including area code)

N/A

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 3.03. Material Modification to Rights of Security Holders.

Upon the scheduled issuance of the Series C Noncumulative Perpetual Preferred Stock, liquidation preference \$100,000 per share, par value \$0.01 per share (the Series C Preferred Stock), of The Bank of New York Mellon Corporation (the Company) on September 19, 2012, the ability of the Company to declare or pay dividends on, or purchase, redeem or otherwise acquire, shares of its common stock or any shares of the Company that rank junior to the Series C Preferred Stock will be subject to certain restrictions in the event that the Company does not declare and pay (or set aside) dividends on the Series C Preferred Stock for the last preceding dividend period. The terms of the Series C Preferred Stock, including such restrictions, are more fully described in the Certificate of Designations (as defined in Item 5.03 below), a copy of which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On September 13, 2012, the Company filed a Certificate of Designations (the Certificate of Designations) with the Secretary of State of the State of Delaware to establish the preferences, limitations and relative rights of the Series C Preferred Stock. The Certificate of Designations became effective upon filing, and a copy is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 8.01. Other Events.

On September 12, 2012, the Company entered into an underwriting agreement (the Underwriting Agreement) with Citigroup Global Markets Inc., Goldman, Sachs & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC and BNY Mellon Capital Markets, LLC, as representatives of the several underwriters listed therein (the Underwriters), relating to the public offering (the Offering) of 22,000,000 depository shares (the Depository Shares), each representing a 1/4,000th interest in a share of the Series C Preferred Stock and granted the Underwriters an option to purchase up to an additional 3,300,000 Depository Shares to cover over-allotments, if any. The Underwriting Agreement contains various representations, warranties and agreements by the Company, conditions to closing, indemnification rights and obligations of the parties and termination provisions. The description of the Underwriting Agreement set forth above is qualified in its entirety by reference to the Underwriting Agreement, a copy of which is filed as Exhibit 1.1 to this Current Report on Form 8-K and incorporated herein by reference. This Current Report on Form 8-K is being filed for the purpose of filing Exhibit 1.1 as an exhibit to the Company's registration statement on Form S-3 (File No. 333-167832) (the Registration Statement) and such exhibit is incorporated herein by reference into the Registration Statement.

A copy of the opinion of Craig T. Beazer, Chief Securities Counsel of the Company, relating to the legality of the issuance and sale of Series C Preferred Stock and Depository Shares is attached as Exhibit 5.1 to this Current Report on Form 8-K. Exhibits 5.1 and 23.1 of this Current Report on Form 8-K are incorporated herein by reference into the Registration Statement.

The Deposit Agreement, dated as of September 17, 2012 (the Deposit Agreement), by and among the Company, Computershare Shareowner Services LLC, as depositary, and the holders from time to time of the depository receipts described therein, relating to the Depository Shares is filed as Exhibit 4.1 to this Current Report on Form 8-K and incorporated herein by reference. The form of certificate representing the Series C Preferred Stock and the form of depository receipt representing the Depository Shares are being filed and included as Exhibit A and Exhibit B, respectively, to the Deposit Agreement and are incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit

Number

Description

- 1.1 Underwriting Agreement, dated September 12, 2012, by and among The Bank of New York Mellon Corporation and Citigroup Global Markets Inc., Goldman, Sachs & Co., J.P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and BNY Mellon Capital Markets, LLC, as representatives of the several underwriters listed therein.
- 3.1 Certificate of Designations of The Bank of New York Mellon Corporation, filed with the Secretary of State of the State of Delaware and effective September 13, 2012 (filed as Exhibit 3.2 to the Company's Registration Statement on Form 8-A12B filed on September

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14, 2012 and incorporated by reference herein).

- 4.1 Deposit Agreement, dated as of September 17, 2012, by and among The Bank of New York Mellon Corporation, Computershare Shareowner Services LLC, as depositary, and the holders from time to time of the depositary receipts described therein.

- 4.2 Form of certificate representing the Series C Preferred Stock (included as Exhibit A to Exhibit 4.1).
- 4.3 Form of depositary receipt representing the Depositary Shares (included as Exhibit B to Exhibit 4.1).
- 5.1 Opinion of Craig T. Beazer, Chief Securities Counsel of The Bank of New York Mellon Corporation.
- 23.1 Consent of Craig T. Beazer, Chief Securities Counsel of The Bank of New York Mellon Corporation (included in Exhibit 5.1).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

The Bank of New York Mellon Corporation

(Registrant)

Date: September 18, 2012

By: /s/ CRAIG T. BEAZER
Name: Craig T. Beazer
Title: Assistant Secretary

EXHIBIT INDEX

| Number | Description | Method of Filing |
|---------------|--|---|
| 1.1 | Underwriting Agreement, dated September 12, 2012, by and among The Bank of New York Mellon Corporation and Citigroup Global Markets Inc., Goldman, Sachs & Co., J.P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and BNY Mellon Capital Markets, LLC, as representatives of the several underwriters listed therein. | Filed herewith. |
| 3.1 | Certificate of Designations of The Bank of New York Mellon Corporation, filed with the Secretary of State of the State of Delaware and effective September 13, 2012. | Filed as Exhibit 3.2 to the Company's Registration Statement on Form 8-A12B filed on September 14, 2012 and incorporated by reference herein. |
| 4.1 | Deposit Agreement, dated as of September 17, 2012, by and among The Bank of New York Mellon Corporation, Computershare Shareowner Services LLC, as depositary, and the holders from time to time of the depositary receipts described therein. | Filed herewith. |
| 4.2 | Form of certificate representing the Series C Preferred Stock. | Included as Exhibit A in Exhibit 4.1. |
| 4.3 | Form of depositary receipt representing the Depositary Shares. | Included as Exhibit B in Exhibit 4.1. |
| 5.1 | Opinion of Craig T. Beazer, Chief Securities Counsel of The Bank of New York Mellon Corporation. | Filed herewith. |
| 23.1 | Consent of Craig T. Beazer, Chief Securities Counsel of The Bank of New York Mellon Corporation. | Included in Exhibit 5.1. |