

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71898; File No. SR-NYSEMKT-2014-27)

April 8, 2014

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13 - Equities Governing Pegging Interest

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 25, 2014, NYSE MKT LLC (“NYSE MKT” or “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 amend Rule 13 - Equities (Orders and Modifiers) governing Pegging Interest. The text of 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.

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 13 - Equities (Orders and Modifiers) (“Rule 13”) to (i) remove DMM interest as eligible to be set as pegging interest; (ii) remove Market Pegging Interest; and (iii) remove the ability to add an offset value to be specified for pegging interest.

The Exchange notes that it recently amended its rules governing pegging interest to move the rule text that provided for pegging on the Exchange from Rule 70.26 - Equities (Pegging for d-Quotes and e-Quotes)³ to Rule 13 and amend such text to (i) permit DMM interest to be set as pegging interest; (ii) change references from NBB, NBO and NBBO to PBB, PBO and PBBO, respectively; (iii) permit pegging interest to peg to the opposite side of the market (“Market Pegging Interest”); and (iv) provide for an offset value to be specified for pegging interest.⁴ When it moved the pegging interest rule text to Rule 13, the Exchange also made several other changes to the rule text so that the proposed substantive changes could be incorporated in a logical and transparent manner and to streamline the rule in a non-substantive manner. The Exchange notes that the proposed rule change would revert rules governing pegging interest to the prior functionality, but would maintain the changes to move the rule text to Rule 13, to reference the PBBO instead of the NBBO, and to streamline the rule text.

In the 2012 pegging filing, the Exchange stated that it would announce the implementation date of that proposed rule change in a Trader Update no later than 90 days after publication of the notice in the Federal Register, and the implementation date would be no later

³ E-Quotes are Floor broker agency interest files. D-Quotes are e-Quotes for which a Floor broker has entered discretionary instructions as to size and/or price.

⁴ See Securities Exchange Act Release No. 68305 (Nov. 28, 2012), 77 FR 71853 (Dec. 4, 2012) (SR-NYSEMKT-2012-67) (the “2012 pegging filing”).

than 90 days following publication of the Trader Update announcing publication of the notice in the Federal Register. Following the effective date of the 2012 pegging filing, the Exchange was undergoing a number of complex technology changes, including introducing technology to implement the Regulation NMS Plan to Address Extraordinary Market Volatility (the “Plan”),⁵ which began implementation on April 8, 2013, and moving the Exchange’s matching engine to the Universal Trading Platform. During that time, the Exchange prioritized its technology implementation schedule to assure timely compliance with the Plan’s implementation schedule. As a result, in the Spring of 2013, the Exchange moved back the planned implementation of the pegging interest changes.

During this same period, the Exchange maintained communications Floor brokers and Designated Market Makers (“DMM”) regarding its technology plans. After taking into consideration both the ongoing technology changes that the Exchange implemented in 2013, including implementation of both Phase I of the Plan in April 2013 and implementation of Phase II of the Plan in August and September of 2013, and feedback from Floor brokers and DMMs, the Exchange did not introduce the functionality described in the 2012 pegging filing to expand pegging interest to DMMs, introduce the Market Pegging Interest, or make available the ability to add an offset value. The Exchange did, however, implement the pegging functionality to peg to the PBBO instead of the NBBO.

The Exchange now proposes to conform its rules to the pegging functionality that is currently available. Accordingly, the Exchange proposes to amend Rule 13 governing pegging interest to (i) delete the reference to DMMs in paragraph (a)(1) of the Rule 13 text governing pegging interest; (ii) delete paragraph (b) of the Rule 13 text governing pegging interest, which

⁵ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) (Approval Order of the Plan), as amended.

discusses offset values; and (iii) delete paragraph (d) of the Rule 13 text governing pegging interest, which discusses the Market Pegging Interest. The Exchange believes it is appropriate to maintain the balance of the rule text governing pegging interest in Rule 13 for the same reasons expressed in the 2012 pegging filing. Specifically, as described in detail in the 2012 pegging filing, the remainder of the Rule 13 rule text governing pegging interest covers the same functionality as the rule text previously found in Rule 70.26 - Equities, but with non-substantive changes to make the rule text more focused and streamlined.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁶ in general, and furthers the objectives of Section 6(b)(5),⁷ in particular, because 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, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change is also not designed to permit unfair discrimination.

The Exchange believes removing rule text that relates to functionality that the Exchange did not implement will remove impediments to, and perfect the mechanism of a free and open market and national market system and, in general, protect investors and the public interest by assuring that the Exchange’s rules are transparent regarding how the Exchange operates. In addition, the Exchange believes that maintaining the balance of the rule text in Rule 13 governing pegging interest promotes clarity and transparency by adding greater specificity with

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

respect to the interest to which pegging interest may peg. Additionally, the removal would reduce potential confusion that may result from having unavailable functionality in the Exchange's rulebook. In addition, the continuation of the realignment and consolidation of former Rule 70.26 - Equities rule text governing pegging interest with other orders and modifiers in Rule 13 has resulted in a clearer rule, which benefits all member organizations as well as others that read the rule.

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 is not designed to address any competitive issue but rather would delete unavailable functionality in the Exchange's rulebook, thereby 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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹ 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

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6).

Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

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)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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2014-27 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-NYSEMKT-2014-27. 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

¹⁰ 15 U.S.C. 78s(b)(2)(B).

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 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-NYSEMKT-2014-27 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.¹¹

Kevin M. O'Neill
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).