

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68380; File No. SR-NYSEMKT-2012-76)

December 7, 2012

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 903 to Provide that the Exchange May Not List Short Term Option Series Expirations that Coincide with the Expiration of Quarterly Option Series on the Same Class

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 November 30, 2012, 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 filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders the proposal effective upon receipt of this filing by 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 Exchange Rule 903 to provide that the Exchange may not list Short Term Option Series (“STOS”) expirations that coincide with the expiration of Quarterly Option Series on the same class. The text of the proposed rule change is available on

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)(iii).

⁵ 17 CFR 240.19b-4(f)(6).

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 proposes to amend Exchange Rule 903 to provide that the Exchange may not list Short Term Option Series ("STOS") expirations that coincide with the expiration of Quarterly option series on the same class.

Exchange Rule 903(h) currently provides that no STOS may expire in the same week in which monthly or Quarterly option series on the same class expire. When the STOS Program was originally established in 2006, the Exchange could not list expirations in the same week as the monthly expiration.⁶ Quarterly options series on the Exchange were subsequently added in 2006.⁷ The Exchange, as part of the Quarterly options series Rules, adopted a provision in Commentary .09 of 903 that provided that the "Exchange will not list a Short Term Options Series on an options class whose expiration coincides with that of a Quarterly Options Series on

⁶ See Securities Exchange Act Release No. 52014 (July 12, 2005), 70 FR 41244 (July 18, 2005) (SR-Amex-2005-035).

⁷ See Securities Exchange Act Release No. 54137 (July 12, 2006), 71 FR 41283 (July 20, 2006) (SR-Amex-2006-67).

that same options class.⁸ In 2010, the Exchange added to the Rule 903(h) that no STOS expirations could be added in the same week as the Quarterly options series expiration.⁹

NYSE Arca Options Rule 6.4, Commentary .07, provides that no STOS may expire in the same week in which monthly option series on the same class expire or, in the case of Quarterly options series, on an expiration that coincides with an expiration of Quarterly option series on the same class.¹⁰ For example, if the Quarterly options series would expire on a Monday, since Monday does not coincide (not the same day) as Friday when STOS would normally expire, NYSE Arca Options and other options exchanges could list a STOS expiration for that week. In contrast, pursuant to current Exchange Rule 903(h), the Exchange could not list STOS that expire on that Friday in the same week that Quarterly options series expires on Monday.

The Exchange proposes to adopt the same language that is used for NYSE Arca Options to ensure conformity between the options exchanges. The proposed change would allow the Exchange to list STOS expirations the same week as Quarterly option series, but not on a day that coincides or is the same as the expiration of Quarterly option series on the same class. The Exchange believes that the STOS Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. The Exchange believes that this proposal would eliminate inconsistencies in expirations between the STOS Programs of two exchanges and help provide

⁸ See id.

⁹ See Securities Exchange Act Release No.62370 (June 23, 2010), 75 FR 37870 (June 30, 2010) (SR-NYSEAmex-2010-62).

¹⁰ Other options exchanges have similar rules. See Chicago Board Options Exchange, Incorporated Rule 5.5(d)(2); NASDAQ OMX PHLX LLC Rule 1012, Commentary .11(b).

the investing public and other market participants with additional opportunities to hedge their investment, thus allowing these investors to better manage their risk exposure.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹¹ in general, and furthers the objectives of Section 6(b)(5),¹² 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.

The proposal is designed 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 by ensuring conformity between STOS Programs on competing options exchanges.

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.

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

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because waiver of the operative delay will allow the Exchange to clarify its own rules as well as list STOs on the same dates as other exchanges without undue delay. Therefore, the Commission designates the proposal operative upon filing.¹⁵

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.

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:

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). 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 For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2012-76 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2012-76. 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 Section, 100 F Street, NE, Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website at www.nyse.com. 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-2012-76 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.¹⁶

Kevin M. O'Neill
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).