SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70799; File No. SR-NYSEMKT-2013-87)

November 1, 2013

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Regarding Elimination of the Cancellation Fee from the NYSE Amex Options Fee Schedule

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 October 29, 2013, 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to eliminate the Cancellation Fee from the NYSE Amex Options Fee Schedule ("Fee Schedule"). The Exchange proposes to implement the fee change effective November 1, 2013. 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

1 15 U.S.C.78s(b)(1).

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

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 eliminate the Cancellation Fee from the Fee Schedule. The Exchange proposes to implement the fee change effective November 1, 2013.

The Exchange added the Cancellation Fee to the Fee Schedule in March 2009.[4] The Exchange assesses a Cancellation Fee of $1.50 on an executing clearing member for each cancelled public customer order for both Mini and standard option contracts (origin code "C") in excess of the number of public customer orders for both Mini and standard option contracts that the executing clearing member executes in a month for itself or for a correspondent firm. All public customer orders for both Mini and standard option contracts from the same executing clearing member for itself or for such correspondent firm executed in the same series on the same side of the market at the same price within a 300-second period are aggregated and counted as one executed order for purposes of the Cancellation Fee. If an executing clearing member cancels fewer than 500 public customer orders for both Mini and standard option contracts in a month for itself or for a correspondent firm, then the Cancellation Fee does not apply. The Cancellation Fee also does not apply to cancelled orders, for both Mini and standard option contracts, that improve the Exchange's prevailing best bid and offer ("BBO") at the time the orders are received, or to Professional Customer orders. The Cancellation Fee was adopted to encourage the efficient use of the Exchange's system capacity; the Exchange noted that

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[4] See Securities Exchange Act Release No. 59658 (March 31, 2009), 74 FR 15569 (April 6, 2009) (SR-NYSEAmex-2009-01).

excessive order cancelling had the residual effect of exhausting system resources, bandwidth, and capacity.[5]

In 2011, the Exchange adopted Excessive Bandwidth Utilization Fees,[6] which have reduced the need to continue to charge the Cancellation Fee. The Excessive Bandwidth Utilization Fees have two components, the Order to Trade Ratio Fee and the Messages to Contracts Traded Ratio Fee. The Order to Trade Ratio Fee assesses a charge of $5,000 to $35,000 per month on an ATP Holder entering a large number of orders that do not subsequently execute if the ATP Holder fails to achieve a certain execution ratio. The Messages to Contracts Traded Ratio Fee is $0.01 per 1,000 messages in excess of 1.5 billion messages in a calendar month if the ATP Holder does not execute at least one contract for every 1,500-5,000 messages entered, as determined by the Exchange. Both fees target excessive activity by requiring a certain level of executed orders to avoid incurring the fees.

ATP Holders that become subject to more than one of the three fees (Cancellation, Order to Trade Ratio, and/or Messages to Contracts Traded Ratio) in any one month are only charged the highest of the three fees.[7] As such, the Exchange believes that it can eliminate the Cancellation Fee but continue to discourage inefficient activity by continuing to charge the Excessive Bandwidth Utilization Fees. The Exchange believes that the Excessive Bandwidth Utilization Fees will adequately incent ATP Holders to utilize the Exchange's system capacity in

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5 Id. at 15570.

6 See Securities Exchange Act Release No. 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR-NYSEAmex-2011-37).

7 See endnote 12 to the Fee Schedule, available at https://globalderivatives.nyx.com/sites/globalderivatives.nyx.com/files/nyse_amex_options_fee_schedule_10_1_13.pdf.

a rational manner.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange believes that eliminating the Cancellation Fee is reasonable because the Exchange will continue to have Excessive Bandwidth Utilization Fees that will discourage inefficient use of the Exchange's system capacity. The Exchange believes that the proposed change is also equitable and not unfairly discriminatory. The Cancellation Fee only applies to public customer orders while the Excessive Bandwidth Utilization Fees are applicable to all of an ATP Holder's activity. The Exchange believes that retaining a fee that discourages excessive cancellations and encourages efficient use of the Exchange's system capacity irrespective of account type (Customer, Professional Customer, Firm, etc.) will result in more equitable treatment of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] 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 intended to address a competitive issue but rather is intended to encourage efficient use of the Exchange's system capacity. Because competitors are free to modify their own fees and credits in response, and

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[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78f(b)(8).

because market participants may readily adjust their trading practices, the Exchange believes that the degree to which fee or credit changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of ATP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

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)[11] of the Act and subparagraph (f)(2) of Rule 19b-4[12] 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 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:

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or

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11 15 U.S.C. 78s(b)(3)(A).

12 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2013-87 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-2013-87. 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 Room at 100 F Street, NE, Washington, DC 20549-1090 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 available publicly. All submissions should refer to File Number SR-NYSEMKT-2013-87, 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.[13]

Kevin M. O'Neill
Deputy Secretary

[13] 17 CFR 200.30-3(a)(12).