

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77902; File No. SR-NYSEMKT-2016-55)

May 25, 2016

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 930NY Regarding Definition of Floor Broker

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 May 17, 2016, 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 amend Rule 930NY (Floor Broker Defined). 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 15 U.S.C. 78a.

³ 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 930NY to update the definition of Floor Broker.⁴

The proposed rule change would harmonize the Floor Broker definition with the recently updated rule of another competing options exchange – specifically NASDAQ OMX PHLX LLC (“PHLX”).⁵

Rule 930NY(a) defines a Floor Broker as “a sole proprietor ATP Holder or a representative of an ATP Holder who is registered with the Exchange for the purpose, while on the Exchange Floor, of accepting and executing option orders received from ATP Holders.” The Rule further provides that “[a] Floor Broker shall not accept an order from any other source unless he is a sole proprietor ATP Holder or a representative of an ATP Holder approved to transact business with the public in accordance with Rule 441, in which event he may accept orders for customers of the ATP Holder.”

The Exchange notes that Floor Brokers, as registered Broker/Dealers⁶, have long handled orders from Broker/Dealers who may not be ATP Holders. In addition, Floor Brokers may

⁴ The Exchange notes that, other than adding reference to Professional Customers, the definition of Floor Broker has remained unchanged since its adoption in 2009, as part of the Exchange’s adoption of the Rule 900NY series. See Securities Exchange Act Release No. 59472 (February 27, 2009) 74 FR 9843 (March 6, 2009) (NYSEALTR-2008-14), which established rules for the trading of listed options. The Rule 900NY suite of rules was substantially based on the existing Rules of NYSE Arca LLC. See also Securities Exchange Act Release No. 61818 (March 31, 2010) 75 FR 17457 (April 6, 2010) (SR-NYSE Amex-2010-18) (relating to accepting orders from Professional Customers).

⁵ See Securities Exchange Act Release No. 76800 (December 30, 2015), 81 FR 549, (January 6, 2016) (SR-Phlx-2015-114) (adopting updated definition of Floor Broker in PHLX Rule 1060 on immediately effective basis).

⁶ See Rule 930NY(a).

accept orders from non-Broker/Dealers (i.e., public customers).⁷ Thus, the Exchange proposes to clarify Rule 930NY(a) by removing the language regarding the types of market participants from whom a Floor Broker may accept an order.⁸ The updated rule would provide that a Floor Broker is an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders.⁹ Further, as proposed, a Floor Broker may accept orders from ATP Holders, Broker Dealers that are non-ATP Holders, Professional Customers, pursuant to Rule 930NY(b), as well as from public customers provided the Floor Broker is properly qualified to do business with the public.¹⁰

This proposed rule change would reflect current practice on the Exchange, specifically that a Floor Broker may accept orders from Broker Dealers that are not ATP Holders. The proposed modification would not alter a Floor Broker's responsibilities. Further, the proposal would have no impact on a Floor Broker's ability to accept orders from the public.¹¹

⁷ To handle the orders of public customers, Floor Brokers must be properly qualified to do business with the public, per Section 3(Conduct of Accounts for Options Trading), generally, and Rule 920 (Registration and Examination of Options Personnel), specifically.

⁸ See proposed Rule 930NY(a). This practice is consistent with the rules of other exchanges. See, e.g., supra n. 5 (PHLX Rule 1060) and CBOE Rule 6.70 (permitting CBOE Floor Brokers to accept orders from non-member broker-dealers).

⁹ Consistent with the proposed changes to Rule 930NY(a), the Exchange proposes to delete the cross reference to this section from Rule 930NY(b)(1). See proposed Rule 930NY(b)(1).

¹⁰ See supra n. 7.

¹¹ See id.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5),¹³ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that the proposal is designed to remove language that could be interpreted as a limitation on orders that may be accepted by Floor Brokers to reflect current practice on the Exchange, which would promote just and equitable principles of trade, and remove impediments to, and perfect the mechanism of a free and open market. The proposed change would make clear to market participants that a Floor Broker may accept an order from a non-ATP Holder that is a Broker Dealer, which adds clarity and transparency to Exchange rules to the benefit of all market participants. Thus, the Exchange believes that the proposal would help prevent confusion and help ensure that floor brokerage services are widely available to various types of market participants, which should, in turn, promote just and equitable principles of trade.

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

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. With respect to inter-market competition, the proposed rule change is a competitive change that is

¹² 15 U.S.C. § 78f(b).

¹³ 15 U.S.C. § 78f(b)(5).

substantially similar to rules in place at another competing options exchange.¹⁴ With respect to intra-market competition, the proposal applies to all NYSE MKT Floor Brokers.

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 Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶ 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 Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁷

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

¹⁴ See supra n. 5.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁸ 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-2016-55 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-2016-55. 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, 100 F

¹⁸ 15 U.S.C. 78s(b)(2)(B).

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 available publicly. All submissions should refer to File Number SR-NYSEMKT-2016-55, 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.¹⁹

Brent J. Fields
Secretary

¹⁹ 17 CFR 200.30-3(a)(12).