

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68191; File No. SR-NYSEMKT-2012-42)

November 8, 2012

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, Amending Rule 903(h) and Related Commentary .10 to Expand the Number of Expirations Available Under the Short Term Option Series Program (“STOS Program”), to Allow for the Exchange to Delist Series in the STOS Program That Do Not Have Open Interest, and To Expand the Number of Series in the STOS Program Under Limited Circumstances

I. Introduction

On September 6, 2012, NYSE MKT LLC (“NYSE MKT” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Rule 903(h) and related Commentary .10 (“Commentary .10”) to make certain modifications to the Exchange’s Short Term Option Series Program (“STOS Program”). The proposed rule change was published for comment in the Federal Register on September 26, 2012.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to amend Commentary .10 to (i) expand the number of expirations available under the STOS Program; (ii) allow the Exchange to delist, in certain

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 67897 (September 20, 2012), 77 FR 59236 (“Notice”). The Commission notes that on September 18, 2012, the Exchange submitted Amendment No. 1 to the proposed rule change to make certain amendments that, in part, clarified the circumstances in which the Exchange will delist series with no open interest.

circumstances, series in the STOS program that do not have open interest; and (iii) allow the Exchange to list, in certain circumstances, additional series in the STOS program.

The proposed rule change allows the Exchange to open a maximum of five consecutive expirations under the STOS Program for trading on the Exchange. The Exchange notes that it will not add expirations in a STOS series if such expirations would coincide with an existing expiration of a monthly or quarterly series of an option in the same class of the STOS series.

The proposed rule change also amends the circumstances in which the Exchange may delist or list series in the STOS Program. Specifically, the proposed rule change provides that the Exchange will delist series in the STOS Program with no open interest in both the call and the put series having a: (i) strike price higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike price lower than the lowest strike price with open interest in the put and/or call series for a given month, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security. The Exchange would also be permitted, under the proposed rule change, to list additional series in excess of the 30 series otherwise allowed⁴ under Commentary .10 that are between 10% and 30% above or below the price of the underlying security. The Exchange will only be allowed to delist or list series in accordance with the proposed rule change in the event that the underlying security has moved so that there are no series that are at least 10% above or below the current price of the underlying security.

The Exchange asserts that the ability to list five consecutive expirations under the STOS Program is designed to meet increased customer demand and provide market participants with

⁴ Commentary .10(a) provides, in part, that for each option class eligible for participation in the STOS Program, the Exchange may open up to 30 Short Term Option Series for each expiration date in that class.

the ability to hedge in a greater number of option classes and series.⁵ The Exchange also claims that the proposed amendments regarding delisting or listing STOS series are designed to provide investors flexibility by ensuring that there are series within the band of at least 10% but not more than 30% above or below the current price of the underlying security.⁶

III. Discussion and Commission Findings

After careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁸ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 Commission believes that the proposed change may provide the investing public and other market participants with greater flexibility to closely tailor their investment and hedging decisions in a greater number of series, thus allowing investors to better manage their risk exposure.

In approving this proposal, the Commission notes that the Exchange has represented that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with opening of up to five consecutive expirations under the STOS Program.⁹ The

⁵ See Notice, supra note 3 at 59237.

⁶ See id.

⁷ In approving this proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See Notice, supra note 3 at 59237.

Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change, as modified by Amendment No. 1, (SR-NYSEMKT-2012-42) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).