

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71630; File No. SR-NYSEMKT-2014-05)

February 27, 2014

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of Proposed Rule Change Amending Its Rules in Order to Clarify the Applicability and Functionality of Certain Order Types on the Exchange

I. Introduction

On January 8, 2014, NYSE MKT LLC (“Exchange” or “NYSE MKT”) 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 its rules in order to clarify the applicability and functionality of certain option order types on the Exchange. The proposed rule change was published for comment in the Federal Register on January 21, 2014.³ The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange has proposed to amend Rule 900.3NY in order to clarify the applicability and functionality of certain option order types. The Exchange states that it is not proposing to change or alter any obligations, rights, policies or practices enumerated within its rules. Rather, according to the Exchange, this proposal is designed to reduce the potential for investor confusion as to the functionality and applicability of certain option order types presently available on NYSE Amex Options.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 71294 (January 14, 2014), 79 FR 3431 (“Notice”).

⁴ See Notice, 79 FR at 3432.

The Exchange's proposed revisions to Rule 900.3NY would provide greater detail as to the existing functionality of certain order types, including:

- Rule 900.3NY(a) – Market Order. The Exchange has proposed to amend Rule 900.3NY(a) to specify that: (1) Market Orders entered before the opening of trading will be eligible for trading during the Opening Auction Process; (2) Market Orders entered during Core Trading Hours will be rejected if, at the time the order is received, there is no National Best Bid (“NBB”) and no National Best Offer (“NBO”) (collectively, “NBBO”) disseminated by the Options Pricing Reporting Authority (“OPRA”) for the relevant option series; and (3) if at the time the Exchange receives a Market Order to buy (sell) there is an NBB (NBO) but no NBO (NBB) being disseminated, the Market Order will be processed pursuant to Rule 967NY(a).⁵
- Rule 900.3NY(d)(1)-(2) – Stop Orders and Stop Limit Orders. The Exchange has proposed to amend Rule 900.3NY(d)(1)-(2) to specify that it will reject Stop Orders and Stop Limit Orders to buy entered with a stop price below the bid at the time the order is entered and Stop Orders and Stop Limit Orders to sell entered with a stop price above the offer at the time the order is entered.⁶

⁵ See proposed Rule 900.3NY(a); see also Notice, 79 FR at 3432.

⁶ See proposed Rule 900.3NY(d)(1)-(2); see also Notice, 79 FR at 3432-33. The Commission notes that proposed Rule 900.3NY(d)(1)-(2) accurately sets forth this additional specification, but the Exchange's description of this rule change in the purpose section of its filing refers to stop prices above the bid or below the offer (instead of below the bid or above the offer) triggering rejection.

- Rule 900.3NY(o) – NOW Order. The Exchange has proposed to clarify that a NOW Order that is not marketable against the NBBO when submitted to the Exchange will be rejected.⁷

The Exchange's additional proposed revisions to Rule 900.3NY would be three-fold. First, the Exchange has proposed to specify in Rules 900.3NY(g) and 900.3NY(i) that One-cancels-the-other Orders and Single Stock Future/Option Orders, respectively, are only eligible for open outcry trading.⁸ Second, the Exchange has proposed to decommission the functionality supporting the Inside Limit Order defined in Rule 900.3NY(c) and the Tracking Order defined in Rule 900.3NY(d)(5) due to a lack of demand for these order types. The Exchange states that it does not intend to re-introduce these order types in the future, and thus proposes to delete the text of these rules.⁹ Third, the Exchange has proposed to correct typographical errors in the definition of the Opening Only Order in Rule 900.3NY(q).¹⁰

The Exchange has stated that it plans to issue a Trader Update announcing the changes proposed by this rule filing upon approval of the filing.¹¹

III. Discussion and Commission Findings

After careful review, 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.¹² In particular, the Commission finds that the proposed rule change is

⁷ See proposed Rule 900.3NY(o); see also Notice, 79 FR at 3433.

⁸ See proposed Rules 900.3NY(g) and 900.3NY(i); see also Notice, 79 FR at 3433.

⁹ See Notice, 79 FR at 3432-33.

¹⁰ See proposed Rule 900.3NY(q); see also Notice, 79 FR at 3433.

¹¹ See Notice, 79 FR at 3433.

¹² In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

consistent with Section 6(b)(5) of the Act,¹³ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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; and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Exchange believes that the proposed rule change is consistent with, and would further the objectives of, Section 6(b)(5) of the Act because it would add transparency and clarity to the Exchange's rules by enhancing the descriptions of certain order type functionality, deleting obsolete or outdated rules, and correcting inaccurate language. The Exchange also believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the order types available for trading on the Exchange.

Specifically, the Exchange believes that clarifying the definitions of Market Orders, Stop Orders, and NOW Orders removes impediments to and perfects the mechanism of a free and open market by helping to ensure that investors better understand the functionality of these order types. Additionally, the Exchange believes that specifying that Single Stock Future/Option Orders and One-cancels-the-other Orders are only eligible for open outcry trading will help to protect investors and the public interest by reducing the potential for confusion when routing orders to the Exchange. Lastly, the Exchange believes that deleting the definitions applicable to Inside Limit Orders and Tracking Orders provides clarity to Exchange rules by eliminating outdated and obsolete functionality.

¹³ 15 U.S.C. 78f(b)(5).

The Commission notes that the instant proposal does not add any new functionality but instead enhances and clarifies the descriptions of the option order type functionality currently available on the Exchange. The Exchange's proposed revisions would provide greater detail as to the operation of certain option order types, including the circumstances in which certain order types are rejected, order types and modifiers that are compatible or incompatible with each other, and the eligibility of certain order types for only open outcry trading. Further, the Exchange proposes to update its rules by deleting obsolete order type provisions. The Commission believes that these proposed changes are reasonably designed to provide greater specificity, clarity and transparency with respect to the order type functionality available on the Exchange, and therefore should help to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-NYSEMKT-2014-05) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill
Deputy Secretary

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).