

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67346; File No. SR-NYSEMKT-2012-15)

July 3, 2012

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Certain Exchange Rules Related to Floor Official Duties and Responsibilities in the Exchange's Marketplace

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 21, 2012, NYSE MKT LLC ("NYSE MKT" or "Exchange") filed with the Securities and Exchange Commission ("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 Substance of the Proposed Rule Change

The Exchange proposes to amend certain Exchange Rules related to Floor Official duties and responsibilities in the Exchange's marketplace. 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 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 amend certain Exchange Rules pertaining to the duties and responsibilities of Floor Officials in the Exchange marketplace.

The role of the Floor Official evolved out of the self-regulatory scheme of the Securities Exchange Act of 1934, as amended (the “Act”).³ A number of Exchange Rules specify involvement in the marketplace by Floor Officials, senior-level Floor Officials (i.e., Floor Governors, Executive Floor Officials, Senior Floor Officials and Executive Floor Governors), or both.⁴

Typically, the Floor Official’s role on the Floor of the Exchange involves the consideration of requests to execute a particular kind of transaction or the supervision of specified trading situations. In addition to their formal role prescribed by the Exchange rules, Floor Officials also provide a more general level of oversight to the marketplace on a day-to-day basis.

Given the evolution of the equities markets away from manual executions and manual enforcement of rules toward an electronic market that automates executions and in many cases hard codes the rule requirements into the execution logic, many of the trading procedures and situations originally requiring Floor Officials involvement have been automated; in other cases,

³ 15 U.S.C. 78f.

⁴ See NYSE MKT Rules 46- Equities and 46A- Equities (defining Floor Official, Floor Governor, Executive Floor Official, Senior Floor Official and Executive Floor Governors).

the Floor Official approval has become pro forma rather than substantive. In light of this, the Exchange determined that several Exchange Rules should be amended with respect to the duties and responsibilities once assigned to Floor Officials to better comport with today's Exchange market structure.

Proposed Amendments

NYSE MKT Rule 122 - Equities provides that, to avoid unfair allocation of securities traded, no member or member organization shall maintain with more than one broker on the Exchange market orders or orders at the same price for the purchase or sale of the same security for the account of the same principal unless permission has been obtained from a Floor Official. The Exchange proposes to amend the rule to remove this approval as a Floor Official function and therefore ban this practice outright.

The Exchange also proposes amending NYSE MKT Rule 128B - Equities, which prescribes the procedures for the publication of changes, cancellations or other errors on the consolidated tape (the "Tape"). Specifically, Rule 128B.10 - Equities requires Floor Official approval to change or correct a transaction that previously appeared on the Tape, cancel a transaction that previously appeared on the Tape and that has been agreed to by all buyers and sellers, and publish a transaction omitted from the Tape (i.e., a sold or sold last sale). In addition, Rule 128B.13 - Equities requires Floor Official approval for the publication of a correction to a transaction erroneously reported to "a reporter" by a party to the transaction. In the interests of maintaining the integrity of the Tape, the Exchange proposes to elevate the level of approval required under Rules 128B.10 - Equities and .13 - Equities from Floor Official to senior-level Floor Official (i.e., Floor Governors, Executive Floor Officials, Senior Floor Officials and Executive Floor Governors). In addition, the Exchange proposes to delete "to a

reporter” in NYSE MKT Rule 128B.13 - Equities. Historically, Floor reporters were Exchange employees responsible for collecting and inputting transaction data into the ticker system. The position was eliminated many years ago.

Finally, NYSE MKT Rule 128B.10 - Equities provides that, in addition to (proposed senior-level) Floor Official approval, both “buying and selling members” must agree to the publication of (1) a change or a correction in a transaction that previously appeared on the Tape, (2) the cancellation of a transaction which previously appeared on the Tape and which was properly rescinded, or (3) a transaction omitted from the Tape made on the Tape on the day of the transaction. The Exchange proposes to add “or member organizations” after “buying and selling members.” NYSE MKT Rule 2 - Equities defines a “member” as a natural person. A significant number of Exchange member organizations, however, no longer have Floor-based members, and nearly all transactions printed to the Tape are executed by automated systems. The proposed change to NYSE MKT Rule 128B.10 - Equities reflects the changes in the NYSE MKT marketplace away from Floor-based members manually executing the majority of trades printed to the Tape to more automated trading by an increasing number of non-Floor based member organizations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and Section 6(b)(4) of the Act,⁶ 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

open market and a national market system. Specifically, the Exchange believes that the proposed rule changes support the objectives of the Act by amending and/or delegating duties and responsibilities once assigned to Floor Officials to better comport with the Exchange's current market structure and to reflect rapidly changing market technology and the development of automated systems.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ 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 the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.⁹

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 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.

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 the proposal will assist the Exchange in maintaining a fair and orderly market by allowing market participants who agree to cancel a transaction to do so more efficiently, thereby potentially reducing the likelihood that transactions will be printed to the Tape incorrectly. Therefore, the Commission designates the proposal operative upon filing.¹⁰

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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2012-15 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.

¹⁰ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR- NYSEMKT-2012-15. 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 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 publicly available. All submissions should refer

to File Number SR- NYSEMKT-2012-15 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.¹¹

Deputy

Kevin M. O'Neill
Secretary

¹¹ 17 CFR 200.30-3(a)(12).