

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69501; File No. SR-NYSEMKT-2013-36)

May 2, 2013

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13 - Equities to Expand the Availability of Self-Trade Prevention Modifiers

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 22, 2013, NYSE MKT LLC (“NYSE MKT” or the “Exchange”) 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 13 - Equities to expand the availability of self-trade prevention (“STP”) modifiers. The text of the proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 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 Rule 13 - Equities to expand the availability of STP modifiers functionality to additional order types.<sup>4</sup> STP modifiers are designed to prevent two orders from the same market participant identifier (“MPID”) assigned to a member organization from executing against each other. Use of the STP modifiers is optional and is not automatically implemented by the Exchange. Rather, a member organization can choose to add a STP modifier on eligible orders. The STP modifier on the incoming order determines the interaction between two orders marked with STP modifiers and whether the incoming or the resting order would cancel. Both the buy and the sell order must include an STP modifier in order to prevent a trade from occurring and to effect a cancel instruction.

The Exchange proposes to make STP modifiers available to additional order types. Specifically, the Exchange proposes to make STP modifiers available for market orders and stop orders entered by off-Floor participants in a manner that is similar to limit orders. As proposed, the STP modifiers would be available for market orders and stop orders sent to the matching engine by off-Floor participants. Because of technology issues, the Exchange would continue to reject all GTC and MTS-IOC orders with an STP modifier.

In addition, the Exchange proposes to make the STP modifier available for certain Floor broker interest. In adopting STP modifiers, the Exchange noted that the technology supporting

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<sup>4</sup> The Exchange recently amended Rule 13 - Equities to add STP Modifiers. See Securities Exchange Act Release No. 69098 (Mar. 11, 2013), 78 FR 16544 (Mar. 15, 2013) (SR-NYSEMKT-2013-21).

the proposed STP modifiers was not compatible with the Floor broker systems, but the Exchange was actively working to develop the technology to extend STP modifiers to be available for Floor brokers.<sup>5</sup> The Exchange did not believe it should delay the deployment of the STP modifiers for other market participants while it performed the technical modifications required for the use of STP modifiers for Floor brokers. Although the technology supporting STP modifiers is still not compatible with certain Floor broker systems, the Exchange is able to make the STP modifiers available to algorithms used by Floor brokers to route interest to the Exchange's matching engine. Accordingly, the Exchange proposes to make STP modifiers available for e-Quotes, pegging e-Quotes, and g-Quotes entered into the matching engine by an algorithm on behalf of a Floor broker. STP modifiers would not be available for d-Quotes at this time, regardless of the system used to enter d-Quotes.

Because of the technology changes associated with this rule proposal, the Exchange will announce the implementation date of the STP modifiers in a Trader Update to be published no later than 60 days after the publication of the notice in the Federal Register. The implementation date will be no later than 60 days following publication of the Trader Update announcing publication of the notice in the Federal Register.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>6</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>7</sup> 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

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<sup>5</sup> See id.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that expanding the availability STP functionality to additional order types would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would allow firms to better manage order flow and prevent unintended executions with themselves or the potential for “wash sales” that may occur as a result of the velocity of trading in today’s high-speed marketplace. Commonly, member organizations have multiple connections into the Exchange due to capacity and speed-related demands. Orders routed by member organizations via different connections may, in certain circumstances, inadvertently trade against each other. Enabling STP modifiers for market orders and stop orders would provide member organizations with the opportunity to prevent these unintended trades from occurring.

By providing STP modifier functionality to certain e-Quotes, pegging e-Quotes, and g-Quotes entered algorithmically, the proposal provides Floor brokers with the opportunity to prevent these unintended trades from occurring as well. The Exchange believes that offering STP modifiers to Floor broker interest entered via algorithms removes impediments to and perfects the mechanism of a free and open market because there is a greater potential for unintended consequences for interest entered via algorithms, because of the above-noted velocity of trading, as compared to orders entered manually. The Exchange will continue to work to develop technology to extend STP modifiers for other Floor broker systems as well. The Exchange notes that all Floor brokers have access to algorithms, and therefore this functionality will be available to all Floor brokers. The Exchange further notes that the STP modifiers would not alleviate, or otherwise exempt, broker-dealers from their best execution obligations.

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. The Exchange believes that the proposal will provide member organizations and Floor brokers with the opportunity to prevent unintended self-trades from occurring. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. Many competing venues offer similar functionality to market participants. To this end, the Exchange is proposing a market enhancement to provide greater protections from inadvertent executions, and encourage market participants to trade on the Exchange. The Exchange believes the proposed rule change is pro-competitive because it would enable the Exchange to provide Floor brokers with functionality that is similar to that of other exchanges and available for interest entered electronically from off of the Floor.

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

Because the foregoing 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 for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup>

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

and Rule 19b-4(f)(6)<sup>9</sup> thereunder.

At any time within 60 days of the filing of the 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 Commission shall institute proceedings under Section 19(b)(2)(B)<sup>10</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2013-36 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-2013-36. This file number should be included on the subject line if e-mail is used. To help the Commission process and

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<sup>9</sup> 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.

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

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 the 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-2013-36 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.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).