

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75614; File No. SR-NYSEMKT-2015-62)

August 5, 2015

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule to Modify the Securities That Are Subject to the NYSE Amex Options Market Maker Premium Product Fees

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 August 4, 2015, 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, II, and III 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 the NYSE Amex Options Fee Schedule (“Fee Schedule”) to modify the securities that are subject to the NYSE Amex Options Market Maker Premium Product Fees. The Exchange proposes to implement the fee change effective August 4, 2015. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the securities that are subject to the NYSE Amex Options Market Maker Premium Product Fees. The Exchange proposes to implement the fee change effective August 4, 2015.

In August, 2012, the Exchange introduced the Premium Product Fees, which charges a monthly fee to any NYSE Amex Options Market Maker transacting in the most active issues trading on the Exchange.⁴ Section III.D. of the Fee Schedule sets forth the list of 10 Premium Products –SPY, AAPL, IWM, QQQ, BAC, EEM, GLD, JPM, XLF, and VXX. Subject to exceptions, NYSE Amex Options Market Makers that transact in these issues are subject to a fee of \$1,000 per product traded with a monthly cap of \$7,000.⁵

The Exchange proposes to amend the list of Premium Products to reflect the most actively traded securities on the Exchange today, which have changed since the fees were introduced in 2012.⁶ Specifically, the Exchange proposes to remove GLD, JPM, and XLF from

⁴ See Securities Exchange Act Release No. 67634 (August 9, 2012), 77 FR 49038 (August 15, 2012) (SR-NYSEMKT-2012-33) (“Premium Product Filing”).

⁵ The Premium Product Fees do not apply to Market Makers that qualify as NYSE Amex Options Floor Market Makers as described in note 1 to Section III.A of the Fee Schedule. See Fee Schedule, Section III.D. and III.A.

⁶ The Exchange represented in the Premium Product Filing that “any change to the list of Premium Products would be done through a fee filing.” See *supra* n. 4, 77 FR at 49038.

the list of Premium Products and to replace them with BABA, FB and USO. The Exchange believes that the proposed change would continue to encourage meaningful Market Maker participation in the most active issues on the Exchange. In this regard, the Exchange proposes to amend Section III.D. to the Fee Schedule to reflect the proposed changes to the list of Premium Product.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁸ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the change to the list of Premium Products is reasonable, equitable, and not unfairly discriminatory because the proposed change applies to all NYSE Amex Options Market Makers equally, except for those market makers who qualify as NYSE Amex Floor Market Makers and achieve 75% or more of their volumes in open or public outcry, which Market Makers are exempt because the Exchange believes that public outcry markets serve an important role in the price discovery process that benefits all participants on the Exchange and in the marketplace.⁹ As the Exchange noted in 2012 in the Premium Products Filing, because the Exchange does not limit the number of participants who may act as market makers, either electronically or in public outcry, the Exchange has more than sufficient liquidity

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ See supra n. 5.

in the most active options on the Exchange. The proposed change simply updates the list of Premium Products to include those names most actively traded on the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,¹⁰ 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 notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹¹ of the Act and subparagraph (f)(2) of Rule 19b-4¹² thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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

¹⁰ 15 U.S.C. 78f(b)(8).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

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)¹³ 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-2015-62 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2015-62. 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

¹³ 15 U.S.C. 78s(b)(2)(B).

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 Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website at www.nyse.com. 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-2015-62 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.¹⁴

Robert W. Errett
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).