

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67444; File No. SR-NYSEMKT-2012-20)

July 16, 2012

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 134 - Equities to Shorten the Time Frame for Assigning the Contra Party to Unresolved Account Balances in the Exchange's Online Comparison System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 5, 2012, NYSE MKT LLC ("Exchange" or "NYSE MKT") 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 Exchange. 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 134 - Equities to shorten the time frame for assigning the contra party to unresolved account balances in the Exchange's Online Comparison System. 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.

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

<sup>2</sup> 17 CFR 240.19b-4.

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 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 Exchange Rule 134(e)(iii) - Equities (Differences and Omissions-Cleared Transactions) to shorten the time frame for assigning a designated market maker ("DMM") unit as the contra party for any unresolved omnibus account balances in the Exchange's Online Comparison System ("OCS").

Background

The Exchange operates its OCS to assist in trade settlement. OCS conducts comparison processing, which includes matching initial trade submissions, correction processing, omnibus processing and questioned trade ("QT") resolution for trades that take place on the Exchange. The OCS system is used by Exchange members and member organizations in their roles as clearing firms, brokers and DMM units for Exchange trade executions. OCS is linked internally to Exchange trading systems and

externally to The National Securities Clearing Corporation.<sup>3</sup>

To facilitate the comparison process, the Exchange utilizes omnibus account designations to record trade data.<sup>4</sup> Using omnibus account designations allows for universal contras for one trade side, reducing the number of different data elements that have to be independently recorded into a broker's hand-held device or written on a Floor report for a trade.

In May 2009, the Exchange amended Rule 134 - Equities to enable it to assign, on the second business day after the trade date ("T+2"), any open balance in any of the omnibus accounts it uses to compare trades to either a DMM Unit or the member organization that has been identified as the clearing firm for one side of an unresolved trade.<sup>5</sup> Specifically, the Exchange added new subsection (e)(iii) to Rule 134 - Equities to enable the Exchange to assign a Floor broker's clearing firm or DMM Unit, at the close of business on T+2, as the contra side to an imbalance in any omnibus account that is used by OCS. In June 2010, the Exchange amended Rule 134 - Equities again to separate Rule 134(e)(iii) - Equities into two subsections and clarify that DMM units are assigned as the contra party to an omnibus account imbalance and that clearing firms are the assigned contra party to an uncompleted trade. The Exchange also shortened the time frame for the assignment of uncompleted e-Quote transactions from T+2 to the first

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<sup>3</sup> National Securities Clearing Corporation ("NSCC") is a clearing agency registered with the Commission under Section 17A of the Securities Exchange Act of 1934. NSCC provides centralized clearance and settlement services for equity security trades for U.S. broker-dealers.

<sup>4</sup> An "omnibus account" is an account in which the transactions of multiple individual participants are combined.

<sup>5</sup> See Securities Exchange Act Release No. 59997 (May 28, 2009), 74 FR 28086 (June 12, 2009) (SR-NYSEAmex-2009-20).

business day after the trade date (“T+1”).<sup>6</sup>

Proposed Amendment of NYSE Rule 134

The Exchange proposes to amend Rule 134(e)(iii) - Equities to shorten the time frame for when the DMM unit is assigned as the contra party to an unresolved omnibus account imbalance. The current rule provides that at the close of business on T+2 after the conclusion of the processes described in sections (e)(i) and (e)(ii) of the Rule, but no earlier than 7:00 p.m., the Exchange shall assign a DMM unit as the contra party to any unresolved omnibus account imbalance remaining in OCS.

The Exchange proposes to amend Rule 134(e)(iii) - Equities to provide that a DMM unit would be assigned as the contra party to any unresolved omnibus account imbalances by the close of business on the trade date, but no earlier than 5:00 p.m. The Exchange believes that shortening this time period will result in speedier resolution of unresolved account balances. The Exchange will be able to implement the proposed change due to system developments in OCS, including the reduction in the use of omnibus accounts other than for manual executions and related ability for the DMM to identify post-trade the clearing member organization behind a manual execution. The Exchange notes that the proposed changes to Rule 134(e)(iii) - Equities will not impact the processes set forth in (e)(i) and (ii) of that Rule.

Because this is a technology-based change, the Exchange proposes to announce the implementation date by Trader Update.

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<sup>6</sup> See Securities Exchange Act Release No. 64277 (July 9, 2010), 75 FR 41560 (July 16, 2010) (SR-NYSE-2010-48 and SR-NYSEAmex-2010-61).

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>7</sup> that an exchange have rules that are designed 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. The Exchange believes that this rule proposal accomplishes these goals by enhancing the comparison process at the Exchange thereby supporting the timely settlement of securities transactions. In particular, the Exchange believes that the speedier resolution of unresolved account balances support the mechanism of a free and open market as it assures that the contra party to a transaction will receive a cleared transaction in a timely and efficient manner.

### (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.

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

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 Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> 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, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, 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.

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:

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

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

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-2012-20 on the subject line.

Paper Comments:

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2012-20. This file number should be included on the subject line if email 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 Section, 100 F Street, N.E., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of NYSE and on NYSE's website at [www.nyse.com](http://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-2012-20 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>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).