

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68460; File No. SR-NYSEMKT-2012-41)

December 18, 2012

Self-Regulatory Organizations; NYSE MKT LLC.; Order Granting Approval of Proposed Rule Change to Amend Commentary .04 to NYSE Amex Options Rule 903 to Permit the Exchange to List Additional Strike Prices Until the Close of Trading on the Second Business Day Prior to Monthly Expiration

I. Introduction

On September 6, 2012, NYSE MKT LLC (“NYSE MKT” or “Exchange”) 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 Commentary .04 to NYSE Amex Options Rule 903 to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration in unusual market conditions. The proposed rule change was published for comment in the Federal Register on September 20, 2012.³ On November 1, 2012, the Commission designated a longer period to act on the proposed rule change, until December 19, 2012.⁴ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Commentary .04 to NYSE Amex Options Rule 903 to permit the Exchange to add additional strikes until the close of trading on the second business day prior to the expiration of a monthly, or standard, option in the event of unusual market

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 67862 (September 14, 2012), 77 FR 58429 (“Notice”).

⁴ Securities Exchange Act Release No. 68135, 77 FR 66896 (November 7, 2012).

conditions. NYSE Amex Options Rule 903 currently permits the Exchange to open additional series of individual stock options until the first calendar day of the month in which the option expires or until the fifth business day prior to expiration if unusual market conditions exist.⁵ The Exchange claims that, under its current rules, if unusual market conditions occur anytime from five to two days prior to expiration, then market participants are unable to obtain a contract tailored to manage their risk.⁶ According to the Exchange, options market participants generally prefer to focus their trading in strike prices that immediately surround the price of the underlying security.⁷ If, however, the price of the underlying stock moves significantly, the Exchange argues that there may be a market need for additional strike prices to adequately account for market participants' risk management in a stock.⁸ Accordingly, the Exchange proposes to permit the listing of additional strikes until the close of trading on the second business day prior to expiration of a monthly option in unusual market conditions.

The Exchange represents that the proposal does not raise any capacity concerns on the Exchange because the proposed change presents no material difference in impact from the current rules.⁹ The Exchange notes that the proposed change allows for new strikes that it would otherwise be permitted to add under existing rules either on the fifth day prior to or immediately after expiration. The Exchange further represents that it discussed the proposed change with the

⁵ The Exchange may make the determination to open additional series for trading when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market. See Notice, supra note 3 at 58429.

⁶ See Notice, supra note 3 at 58429.

⁷ See id.

⁸ See id.

⁹ See id. at 58430. The Exchange also stated that any new strikes added under this proposal would be added in a manner consistent with the range limitations described in NYSE Amex Options Rule 903A.

Options Clearing Corporation (“OCC”).¹⁰ According to the Exchange, the OCC represented that it is able to accommodate the proposal and will have no operational concerns with adding new series on any day, except the last day of trading an expiring series.¹¹ The Exchange states that, since the implementation of the fifth business day restriction on listing additional strikes, improved communications and the adoption of the Streamline Options Series Adds by OCC allows notification of new strikes in real time throughout the industry.¹²

III. Discussion and Commission Findings

After careful review of the proposed rule change, 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.¹³ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 Commission notes that the proposed change extends the timeframe during which the Exchange may list additional series of individual stock options in unusual market conditions. The Commission believes that the proposed change will provide the investing public and other market participants with additional opportunities to tailor their investment and hedging decisions, thus allowing investors to better manage their risk

¹⁰ See id.

¹¹ See id.

¹² See id. at 58429 n 4.

¹³ In approving this proposed rule change, the Commission considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

exposure with additional series.¹⁵

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-NYSEMKT-2012-41) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁵ In approving this proposal, the Commission notes that the Exchange has stated that, although the four additional days to list additional strike prices in the event of unusual market circumstances may generate additional quote traffic, the Exchange believes that any increased traffic will not become unmanageable since the proposal remains limited to the narrow situations when an unusual market event occurs. See Notice, supra note 3 at 58430.

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).