

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69198; File No. SR-NYSEMKT-2013-29)

March 20, 2013

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Definition of Complex Orders, Complex Trades and Stock/Options Orders to Accommodate the Trading of Option Contracts Overlying 10 Shares of a Security

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 March 19, 2013, 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the definition of Complex Orders, Complex Trades and Stock/Options orders to accommodate the trading of option contracts overlying 10 shares of a security (“mini-options contracts”). 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 recently amended its rules to allow for the listing of mini-options contracts on SPDR S&P 500 ("SPY"), Apple, Inc. ("AAPL"), SPDR Gold Trust ("GLD"), Google Inc. ("GOOG") and Amazon.com Inc. ("AMZN").⁴ Whereas standard option contracts represent a deliverable of 100 shares of an underlying security, mini-options contracts represent a deliverable of 10 shares. Except for the difference in the number of deliverable shares, mini-options contracts have the same terms and contract characteristics as regular-sized equity and ETF options, including exercise style. The Exchange notes that Exchange rules that apply to the trading of standard option contracts would apply to mini-option contracts as well.

Prior to the commencement of trading mini-options, the Exchange proposes to amend Rule 900.3NY (Orders Defined) and Rule 990NY (Definitions Related to Order Protection and Locked and Crossed Markets) to provide that Exchange rules regarding complex orders shall apply to mini-options and that consequently, ATP Holders may execute complex orders and Stock/Option Orders involving mini-options contracts. Moreover, the Exchange seeks to amend these rules to provide that all permissible ratios referenced in the definitions of Stock/Option Orders represent the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg. Finally, the Exchange seeks to make

⁴ See Securities Exchange Act Release No. 69131 (March 13, 2013) (SR-NYSE MKT-2013-23).

these amendments to coincide with a similar proposal recently submitted by another options market.⁵

Exchange Rule 900.3NY governs Complex Orders and Stock/Options Orders on the Exchange and Rule 990NY lists definitions applicable to intermarket linkage. Currently, a Stock/Option Order is defined in Rule 900.3NY(h)(1) and Rule 990NY(4)(ii) as an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than 8 options contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation. Therefore, under this definition it would be permissible to execute, for example, a trade where the options leg consists of one (1) standard option contract (i.e., 100 shares) and the stock leg consists of 100 shares of the underlying stock. Additionally, it would be permissible to execute a trade where the options leg consists of eight (8) standard option contracts (i.e., 800 shares) and the stock leg consists of 100 shares of the underlying stock.

The terms Complex Order in Rule 900.3NY(e) and Complex Trade in Rule 990NY(4)(i) are defined substantially identical as any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00).

The Exchange notes that the abovementioned permissible ratios were established to ensure that only complex and Stock/Option orders that seek to achieve legitimate investment

⁵ See Securities Exchange Act Release No. 34-69129 (March 13, 2013) (SR-CBOE-2013-33).

strategies are afforded certain benefits. Particularly, since compliance with trade-through rules may impede a market participant's ability to achieve the legitimate investment strategies that complex and Stock/Option orders facilitate, an exception from the prohibition on trade-throughs is provided for any transaction that was effected as a portion of a legitimate complex and Stock/Option order. Requiring a meaningful relationship between the different legs of a complex or Stock/Option order prevents market participants from taking advantage of these orders to circumvent the otherwise applicable trade-through rules (e.g., preventing the execution of a Stock/Option Order where the option leg consists of 100 options (i.e., 10,000 shares) and the stock leg consists of only 100 shares).

The Exchange proposes to amend the definition of Stock/Option Orders in Rule 900.3NY(h)(1) and Rule 990NY(4)(ii). As discussed above, the Stock/Option Order definition in both Rule 900.3NY and Rule 990NY clearly permits that an option leg may be coupled with a stock leg representing the same number of units of the underlying stock (i.e., one-to-one ratio). The Exchange seeks to provide that mini-options contracts may also be coupled with a stock leg if the stock leg represents the same number of units of the underlying stock. For example, pursuant to the definition, it would be permissible to execute a trade where leg one consists of one (1) mini-option contract (i.e., 10 shares) and leg two consists of 10 shares of the underlying stock.

Next, the Exchange seeks to amend the Stock/Option Order definition in Rule 900.3NY and Rule 990NY to provide that in addition to standard options, mini-options contracts may be coupled with a stock leg consisting of however many units of the underlying stock is necessary to create a delta neutral position, provided that the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg does not

exceed an eight-to-one ratio. The proposed change specifies that the permissible ratios should be calculated and scaled based upon the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg, instead of by the total number of option contracts in the option leg to the total number of shares of the underlying stock in the stock leg. An example of a permitted Stock/Option Order involving mini-options contracts would be an order in which leg one consists of eighty (80) mini-options contracts (i.e., 800 shares) and leg two consists of 100 shares of the underlying stock (i.e., eight-to-one ratio). Similarly, an order where leg one consists of eight (8) mini-options contracts (i.e., 80 shares) and leg two consists of 10 shares of the underlying stock would be permitted.

The proposed rule change provides that market participants may execute complex and Stock/Option orders involving mini-options contracts. The proposed change also ensures that the principle behind the permissible ratios (i.e., to provide a meaningful relationship between the legs of complex and Stock/Option Orders) is maintained for mini-options contracts.

The Exchange also proposes to amend the definition of Complex Order and Complex Trade to specify that when trading a Complex Order/Complex Trade that is comprised of both mini-options contracts and standard contracts, ten mini-options contracts will represent one standard contract. The Exchange seeks to make clear that the current definition of Complex Order in Rule 900.3NY(e) and Complex Trade in Rule 990NY(4)(i) applies to both standard options and mini-options. The Exchange acknowledges that in accordance with the provisions of Rules 900.3NY(e) and 990NY(4)(i), one leg of a complex order may consist of mini-options contract(s) and the other leg of the order may consist of standard options contract(s), so long as the underlying security is the same and the transaction does not violate the permissible ratios set forth in the rules (i.e. ratio greater or equal to one-to-three or less or equal to three-to-one).

Moreover, the Exchange's proposed amendment seeks to provide that the permissible ratios represent the total number of shares of the underlying stock in the mini-option leg to the total number of shares of the underlying stock in the standard option leg. An example of a permissible complex order involving mini-options and standard options would be an order in which leg one consists of thirty (30) mini-options (i.e. 300 shares) and leg two consists of one (1) standard options (i.e. 100 shares) in the same underlying security (i.e., a ratio equal to 3.0). Another example of a permissible complex order would be an order in which leg one consists of ten (10) mini-options (i.e. 100 shares) and leg two consists of one (1) standard options (i.e. 100 shares) in the same underlying security (i.e., a ratio equal to one-to-one). The Exchange believes the proposed amendment will reduce potential confusion for investors when trading mini-options contracts. Further, the Exchange proposes to provide that Complex Orders comprised of both mini-options contracts and standard contracts are not available for Electronic Complex Order trading pursuant to Rule 980NY.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁶ of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5),⁷ in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would allow market participants to take advantage of legitimate investment strategies and execute complex and Stock/Option orders in mini-options contracts. Additionally, the Exchange believes the proposed rule change will avoid investor confusion if both standard options and mini-options on the same underlying security are permitted to trade as complex and Stock/Option orders. Also, the proposal to maintain the permissible ratios that are applicable to standard options in proportion for mini-options contracts ensures that the principle behind the permissible ratios (i.e., to provide a meaningful relationship between the legs of complex and Stock/Option orders) is maintained for mini-options, which promotes just and equitable principles of trade. The Exchange believes that describing prior to the commencement of trading how the permissible ratios in complex and Stock/Option orders rules will be scaled for mini-options contracts would lessen investor and marketplace confusion.

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. In particular, the proposed amendment is based upon recently published rule amendments by other option exchanges.⁸ Since mini-options contracts are permitted on multiply-listed classes, other exchanges that have received approval to trade mini-options will have the opportunity to similarly amend their rules to clarify and accommodate complex and Stop/Option orders in mini-options.

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.

⁸ See supra note 5.

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 from the date on which it was filed, or such shorter

time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)⁹ of the Act and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) of the Act¹¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii) of the Act,¹² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In March 2013, the Exchange filed a proposed rule change to amend its rules to list and trade certain mini-options contracts on the Exchange, and represented in that filing that the Exchange's rules that apply to the trading of standard options contracts would apply to mini-options contracts.¹³ The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 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 the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ See supra note 4.

would minimize confusion among market participants about how complex orders and stock-options orders involving mini-options contracts will trade.¹⁴

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver would allow the Exchange to implement the proposed rule change immediately, thereby mitigating potential investor confusion as to how complex orders and stock options orders involving mini-options contracts will trade. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹⁵

The Exchange represented that it began trading in mini-options contracts on March 18, 2013.¹⁶ The Commission notes that this proposed rule change was filed on March 19, 2013, and, therefore, pursuant to Rule 19b-4(f)(6), waiver of the 30-day operative delay renders this proposed rule change effective upon the day that it was filed, March 19, 2013.

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

¹⁴ See id.

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

¹⁶ See SR-NYSEMKT-2013-29, Item 7.

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-2013-29 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-2013-29. 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 20549-1090, 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 available publicly. All submissions should refer to File Number SR-NYSEMKT-2013-29, 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.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).