

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76579; File No. SR-NYSEMKT-2015-100)

December 8, 2015

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rules to Establish the Securities Trader and Securities Trader Principal Registration Categories

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 November 24, 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 Exchange Rules to 1) prescribe the Securities Traders examination (Series 57) (the “Series 57 Examination”) as the qualifying examination for registered Market Makers, Market Maker Authorized Traders (“MMATs”), and Floor Brokers, 2) eliminate reference to the S501 Program as a continuing education requirement, and 3) rename the category “Proprietary Trader” as “Securities Trader” in Exchange rules without making any substantive change to the definition of such term. 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> 15 U.S.C. 78a.

<sup>3</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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rules 921NY, 921.1NY and 931NY to prescribe the Series 57 Examination as the qualifying examination for registered Market Makers, MMATs, and Floor Brokers.

Exchange Rule 921NY currently specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a Market Maker. Exchange Rule 921.1NY currently specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a MMAT. And Exchange Rule 931NY currently specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a Floor Broker. For purposes of these rules, NYSE Amex Options has currently prescribed the successful completion of the Proprietary Trader Qualification Examination (“Series 56 Examination”) as the qualifying exam for Market Makers, MMATs and Floor Brokers. In addition, individuals currently engaged solely in proprietary trading, who are not registered as Market Makers, MMATs or Floor Brokers, may qualify for registration by successful completion of the Series 56 Examination or the General Securities Representative Qualification Examination (“Series 7 Examination”).

The Exchange proposes to change the prescribed examination for Market Makers, MMATs and Floor Brokers from the Series 56 Examination to the Series 57 Examination. With this proposed rule change, Market Makers, MMATs, Floor Brokers and individuals engaged solely in proprietary trading will qualify for registration by passing the Series 57 Examination.<sup>4</sup>

The Series 57 Examination is being developed by the Financial Industry Regulatory Authority, Inc. (“FINRA”) in consultation with industry and exchange representatives. The Series 57 examination will be based on the current job functions of securities traders and will include elements of the Series 55 Equity Trader Qualification Examination (which is required to engage in over-the-counter securities trading) and the current Series 56 Registered Proprietary Traders Examination (which is required for associated persons engaged in securities trading).<sup>5</sup> The Series 57 Examination will be based on industry rules applicable to trading of equity securities and listed options contracts. The Series 57 examination will cover, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.<sup>6</sup> As such, the

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<sup>4</sup> Currently, individuals engaged solely in proprietary trading can alternatively take the Series 7 Examination as a qualifying exam. After implementation of the Series 57 Examination, an individual engaged solely in proprietary trading will be required to take the Series 57 Examination as the Series 7 Examination would no longer serve as a qualifying exam to engage solely in proprietary trading.

<sup>5</sup> While the Series 56 Examination is required for associated persons engaged in proprietary trading, Exchange rules do not require such individuals to work at a proprietary trading firm only. These individuals can work at any type of firm. However, they may only engage in proprietary trading at the firm where they are employed. For example, an individual engaged in proprietary trading at a full service firm, who is registered solely to engage in proprietary trading, may not act as a registered representative for that firm.

<sup>6</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (SR-FINRA-2015-017) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories).

Exchange believes that an applicant who has passed the Series 57 Examination is shown to be qualified to act in the capacity of a Market Maker, Floor Broker, MMAT or engage solely in proprietary trading on NYSE Amex Options.

While NYSE Amex Options will no longer be offering the Series 56 Examination as a qualifying exam to new applicants, the Exchange will continue to recognize individuals who have passed that exam as having successfully completed a qualifying exam. Individuals who have taken the Series 56 Examination and have registered in Web CRD<sup>7</sup> as proprietary traders will have their registration converted in Web CRD on January 4, 2016 to a securities trader. Additionally, individuals currently engaged solely in proprietary trading, who currently qualify for registration by passing the Series 7 Examination and have registered in Web CRD as Proprietary Traders will have their registration converted in Web CRD on January 4, 2016 to a Securities Trader without having to take any additional examinations and without having to take any other actions. Individuals presently registered as Market Makers, MMATs, Floor Brokers or those that engage solely in proprietary trading on NYSE Amex Options, who have previously passed a qualifying exam will not be required to take the Series 57 Examination as a condition of their continued registration. However, the registration of individuals who have taken the Series 56 Examination will not be converted to a Securities Trader if they have not registered as a Proprietary Trader in Web CRD by December 28, 2015. After that date, these individuals will be required to take the Series 57 Examination in order to register as securities traders. In addition, individuals registered as proprietary traders in Web CRD prior to the effective date of the proposed rule change will be eligible to register as securities traders without having to take any additional examinations, provided that no more than two years have passed between the date

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<sup>7</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators.

the individual last registered as a proprietary trader and the date the individual registers as a securities trader.<sup>8</sup>

The Exchange also proposes to amend Exchange Rules 341 and 341A. Under the proposed rule change, the Exchange would rename the category “Proprietary Trader” as “Securities Trader” in Rule 341 without making any substantive change to the definition of such term. A Securities Trader, similar to what is currently required for a Proprietary Trader, would be required to register as such on Web CRD and pass the Series 57 Examination described above, but would not be permitted to function in an agency capacity or otherwise conduct a public business in securities. Additionally, Rule 341 requires that an individual associated with an Exchange member with supervisory responsibility over proprietary trading activities qualify and register as a Proprietary Trader Principal. Under the proposed rule change, the Exchange would replace references in Rule 341 to Proprietary Trader Principal with Securities Trader Principal.

Further, registered persons are required under Rule 341A to comply with the Exchange’s continuing education requirements. Specifically, under Rule 341A(a)(1), individuals engaged solely in proprietary trading are required to complete the S501 Program to fulfill the Regulatory Element of their continuing education requirement. With the transition to the Series 57 Examination, the S501 Program will no longer be required; such individuals will instead be required to complete the S101 Program to fulfill the Regulatory Element of their continuing education requirement.

The Exchange notes that in order to qualify as a Proprietary Trader Principal, an associated person currently must pass the Series 56 Examination or the Series 7 Examination,

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<sup>8</sup> See Rule 341A, Commentary .03.

and the Series 24 Examination. Once the Exchange has adopted the Series 57 Examination as the qualifying exam for a Securities Trader, associated persons would need to pass the Series 57 Examination and the Series 24 Examination in order to register as a Securities Trader Principal. Only those individuals who are registered as such would be qualified to supervise a Securities Trader. Individuals registered as a General Securities Principal would not be qualified to supervise a Securities Trader, nor would a Securities Trader Principal be able to act as a General Securities Principal, unless the individual is registered as a Securities Trader Principal and a General Securities Principal.

Within 30 days of filing the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the operative date of the rule change, which will not be sooner than January 4, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”),<sup>9</sup> in general, and furthers the objectives of Section 6(c)(3)(B)<sup>10</sup> of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)<sup>11</sup> of the Act, in particular, in that it is designed, among other things, 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 prescribing the Series 57 Examination for Market Makers, MMATs, Floor Brokers and for individuals engaged solely in proprietary trading is appropriate because

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<sup>9</sup> 15 U.S.C. § 78f(b).

<sup>10</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>11</sup> 15 U.S.C. § 78f(b)(5).

the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for such individuals to appropriately register under Exchange rules. In addition, the Series 57 Examination is expected to be shared by other exchanges and become the industry standard.<sup>12</sup> Accordingly, adopting the Series 57 Examination will help to promote consistency in examination requirements and uniformity across markets.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</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

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<sup>12</sup> See supra, note 6.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

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.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>16</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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 under Section 19(b)(2)(B)<sup>17</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-2015-100 on the subject line.

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<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> 15 U.S.C. 78s(b)(2)(B).



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-2015-100. 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 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](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-2015-100 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>18</sup>

Robert W. Errett  
Deputy Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).