

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77433; File No. SR-NYSEMKT-2016-38)

March 23, 2016

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13 – Equities to Expand the Availability of Self-Trade Prevention Modifiers to Non-Algorithmically Entered Floor Broker Interest

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 15, 2016, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III 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 13 – Equities to expand the availability of self-trade prevention (“STP”) modifiers to non-algorithmically entered Floor broker interest. 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 received on the proposed rule change. The text of those statements may be examined at the places

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 13 – Equities (“Rule 13”) to expand the availability of STP modifiers to non-algorithmically entered e-Quotes, pegging e-Quotes, and g-Quotes.

STP modifiers are designed to prevent two orders from the same market participant identifier (“MPID”) assigned to a member organization from executing against each other. The STP modifier on the incoming order determines the interaction between two orders marked with STP modifiers and whether the incoming or the resting order would cancel. Both the buy and the sell order must include an STP modifier in order to prevent a trade from occurring and to effect a cancel instruction.³ Currently, under Rule 13(f)(3)(B), STP modifiers are available for Limit Orders and Market Orders entered by off-Floor participants, and for e-Quotes, pegging e-Quotes, and g-Quotes sent to the matching engine by an algorithm on behalf of a Floor broker.

The Exchange amended Rule 13 to add STP modifiers in 2013.⁴ At the time, the supporting technology was not compatible with Floor broker systems and the Exchange chose to deploy STP modifiers for other market participants while it performed the technical

³ See Rule 13(f)(3)(A); Securities Exchange Act Release No. 69098 (Mar. 11, 2013), 78 FR 16544 (Mar. 15, 2013) (SR-NYSEMKT-2013-21).

⁴ See Securities Exchange Act Release No. 69098, 78 FR at 16544.

modifications required for the use of STP modifiers for Floor brokers.⁵ The Exchange later made STP modifiers available for algorithms used by Floor brokers to route interest to the Exchange’s matching engine, but the technology supporting STP modifiers was still incompatible with all Floor broker systems.⁶ Now that the technology to extend STP modifiers to all Floor broker systems is available, the Exchange proposes to delete the clause “sent to the matching engine by an algorithm on behalf of a Floor broker” in Rule 13 to make STP modifiers available for eQuotes, pegging e-Quotes, and g-Quotes without limitation. No other changes are proposed to Rule 13.

Because of the technology changes associated with this rule proposal, the Exchange will announce the implementation date in a Trader Update.

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 Section 6(b)(5) of the Act,⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes that extending STP modifiers to non-algorithmically entered Floor broker interest would provide Floor brokers with an additional opportunity to prevent unintended executions by Floor broker customers with themselves or the potential for “wash sales” that may occur as a result of the velocity of trading in today’s high-speed marketplace,

⁵ See id.

⁶ See Securities Exchange Act Release No. 69501 (May 2, 2013), 78 FR 26821 (May 8, 2013) (SR-NYSEMKT-2013-36).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

thereby removing impediments to and perfecting the mechanism of a free and open market. The Exchange notes that STP modifiers would not alleviate, or otherwise exempt, broker-dealers from their best execution obligations.

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. The Exchange believes that the proposal would provide Floor brokers with an additional opportunity to prevent unintended self-trades from occurring. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues offering similar functionality. Many competing venues offer similar functionality to market participants. To this end, the Exchange is proposing a market enhancement to provide greater protections from inadvertent executions, and encourage market participants to trade on the Exchange.

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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

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)¹¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² 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)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-2016-38 on the subject line.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 15 U.S.C. 78s(b)(2)(B).

Paper comments:

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

All submissions should refer to File Number SR-NYSEMKT-2016-38. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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-2016-38, 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

Brent J. Fields
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).