

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-79328; File No. SR-NYSEMKT-2016-102)

November 16, 2016

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Introducing NYSE OptX

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 3, 2016, NYSE MKT LLC, on behalf of NYSE Amex Options (“NYSE Amex Options” or the “Exchange”) 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. On November 15, 2016, the Exchange filed Amendment No. 1 to the proposal.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to introduce NYSE OptX, an order entry platform that would allow for the submission of Qualified Contingent Cross (“QCC”) Orders and orders executed in the Exchange’s Customer Best Execution (“CUBE”) Auction by ATP Holders. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of

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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.

<sup>4</sup> In Amendment No. 1, the Exchange proposed to amend note 10, *infra*, to clarify that QCC Orders sent through NYSE OptX to the Exchange for execution would comply with the order format and EOC entry requirements established by the Exchange, which are set forth in Rule 955NY.

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 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 introduce NYSE OptX, an order entry platform that would allow for the submission of QCC Orders and CUBE Orders (collectively, "paired orders") by ATP Holders.<sup>5</sup> ATP Holders currently send paired orders through the use of third party front end order management systems, such as PrecISE<sup>6</sup> or PULSe,<sup>7</sup> or by calling Floor Brokers and relaying their orders by telephone.

NYSE OptX is an order entry platform that utilizes a combination of Instant Messaging (IM) and browser-based technology to allow ATP Holders to submit paired orders for execution

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<sup>5</sup> The term "ATP Holder" refers to a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP. An ATP Holder must be a registered broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934. See Rule 900.2NY.(5).

<sup>6</sup> PrecISE Trade® is a front-end order and execution management system for trading options and stock-option combinations. See <https://www.ise.com/options/precise/>.

<sup>7</sup> PULSe<sup>SM</sup> is a front end execution management system that allows users to send orders to CBOE, C2 and to other U.S. options and stock exchanges. See <https://www.cboe.org/hybrid/pulsesalesheet.pdf>.

on the Exchange's trading system.<sup>8</sup> There are multiple steps required for ATP Holders to execute a paired order through NYSE OptX.<sup>9</sup> First, an ATP Holder would send a paired order in plain text to NYSE OptX.<sup>10</sup> NYSE OptX would be established by an ATP Holder as an IM contact that can be accessed through various instant messaging platforms. Next, upon receipt of the plain text message sent by an ATP Holder, NYSE OptX would translate the message into a pre-populated order ticket with details of the order and return the order ticket to the ATP Holder in a browser-based URL. When the ATP Holder opens the URL, the pre-populated order ticket would appear with the order information as entered by the ATP Holder. The ATP Holder would then confirm the order ticket and submit the order to the Exchange for execution, or send the order to a Floor Broker for execution. If an ATP Holder sends the order to a Floor Broker, the Floor Broker would verify the order and send it through NYSE OptX for execution on the Exchange's trading system much like how the Floor Broker would normally execute the order but without having to re-key the order into the Floor Broker's terminal. After an order is executed on the Exchange,<sup>11</sup> NYSE OptX would remit details of the execution back to the ATP Holder.

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<sup>8</sup> The Exchange represents that NYSE OptX is merely an instant messaging platform to link ATP Holders with the Exchange's trading system (i.e., it is a new means of sending paired orders to the Exchange's existing trading system), and does not require any changes to the Exchange's communication or surveillance rules.

<sup>9</sup> ATP Holders would be required to log into NYSE OptX each trading day, similar to how they would log into any other front end order management system.

<sup>10</sup> ATP Holders would be required to provide all the essential information regarding paired orders when sending it to NYSE OptX, including the price of the option and the stock, the size and side of the order, i.e., buy or sell, and delta. The Exchange represents that QCC Orders sent to the Exchange for execution would comply with the order format and EOC entry requirements established by the Exchange. See Rule 955NY – Order Format and System Entry Requirements. See also Amendment No. 1, supra note 4.

<sup>11</sup> All executions would be subject to the Exchange's standard transaction fees and credits applicable to QCC Orders and CUBE Orders.

NYSE OptX is designed as an alternative to the front end order management systems, such as PrecISE and PULSE, and as an alternative to the use of telephones for the sending by ATP Holders of paired orders to the Exchange. NYSE OptX would not provide ATP Holders with the capability to send any other type of orders or the capability to send paired orders for execution to other options markets. At this time, ATP Holders would only be able to use NYSE OptX for the transmission of paired orders. Use of NYSE OptX by ATP Holders would be voluntary and ATP Holders would continue to be able to submit paired orders through the use of a third party front end order management system, or by telephone, as they do today.

While PrecISE and PULSE require software to be installed on a desktop computer, NYSE OptX does not require installation of any software as it relies on existing instant messaging technology which would make its use by ATP Holders seamless. ATP Holders would also not need a physical workstation to use NYSE OptX.

The Exchange notes that the use of NYSE OptX to send paired orders is optional. The Exchange is offering NYSE OptX as a convenience to ATP Holders and NYSE OptX would not be the exclusive means available to ATP Holders to execute paired orders on the Exchange. The Exchange will announce the effective date of NYSE OptX in a Trader Update to be published no later than 90 days following Commission approval. The effective date will be no later than 270 days following publication of that Trader Update.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>12</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b)(5),<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just

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<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering NYSE OptX as an alternate means to submit paired orders for execution on the Exchange would generally allow the Exchange to better compete for such orders and thus enhance competition. The Exchange believes that the proposed rule change is reasonable as it could encourage ATP Holders to direct a greater number of paired orders to the Exchange instead of sending such orders to a competing exchange.

The Exchange further believes that the proposed rule change would allow the Exchange of [sic] offer a new service on an equitable and non-discriminatory basis. Specifically, the Exchange believes that use of NYSE OptX is equitable as it is voluntary and not required for ATP Holders to execute paired orders on the Exchange. Additionally, as proposed, the Exchange would provide NYSE OptX to ATP Holders on a non-discriminatory basis in that NYSE OptX would be available to all ATP Holders in a ‘one-size fits all’ offering in which all ATP Holders would be subject to the same terms and conditions and would receive the same level of service.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>14</sup> the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or

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<sup>14</sup> 15 U.S.C. 78f(b)(8).

appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change evidences the strength of competition in the options industry. Specifically, the Exchange believes the proposed rule change will enhance the competitiveness of the Exchange relative to other options exchanges that transact in paired orders.

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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, as modified by Amendment No. 1, 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-2016-102 on the subject line.

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-2016-102. 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-2016-102 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>15</sup>

Brent J. Fields  
Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).