

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81115; File No. SR-NYSEMKT-2017-38)

July 11, 2017

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Rules to Eliminate ALO and Day ISO Orders and Related Functionality, Provide That All Pegged Orders Would Be Non-Displayed Orders, Change References From “NYSE MKT” to “NYSE American,” and Add the Definition of “NYSE American Marketplace”

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 June 29, 2017, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange rules to (1) eliminate ALO and Day ISO orders and related functionality; (2) provide that all Pegged Orders would be non-displayed orders; (3) change references from “NYSE MKT” to “NYSE American”; (4) add the definition of “NYSE American Marketplace”; and (5) make other conforming rule changes. 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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 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 these 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 to (1) eliminate Add Liquidity Only (“ALO”) Orders and Day Intermarket Sweep Orders (“ISO”) and related functionality; (2) provide that all Pegged Orders would be non-displayed orders; (3) change references from “NYSE MKT” to “NYSE American”; (4) add the definition of “NYSE American Marketplace”; and (5) make other conforming rule changes.

To effect its transition to Pillar, the Exchange has adopted the rule numbering framework of the NYSE Arca Equities, Inc. (“NYSE Arca Equities”) rules for Exchange cash equities trading on the Pillar trading platform.⁴ As described in the Framework Filing, the Exchange is denoting the rules applicable to cash equities trading on Pillar with the letter “E” to distinguish

⁴ See Securities Exchange Act Release No. 79242 (November 4, 2016), 81 FR 79081 (November 10, 2016) (SR-NYSEMKT-2016-97) (Notice and Filing of Immediate Effectiveness of Proposed Rule Change) (the “Framework Filing”). In addition, the Exchange has filed a proposed rule change to support Exchange trading of securities listed on other national securities exchanges on an unlisted trading privileges basis, including Exchange Traded Products (“ETP”) listed on other exchanges. See Securities Exchange Act Release Nos. 79400 (November 25, 2016), 81 FR 86750 (December 1, 2016) (SR-NYSEMKT-2016-103) (Notice) and 81038 (June 28, 2017) (SR-NYSEMKT-2016-103) (Approval Order) (the “ETP Listing Rules Filing”).

such rules from current Exchange rules with the same numbering. The Exchange’s trading rules for cash equity trading on Pillar are also based on the trading rules of NYSE Arca Equities.⁵ As described in the Trading Rules Filing, with Pillar, the Exchange will transition its cash equities trading platform from a Floor-based market with a parity allocation model to a fully automated price-time priority allocation model that trades all NMS Stocks. In addition, the Exchange will introduce a delay mechanism on Pillar that will add the equivalent of 350 microseconds of latency to inbound and outbound order messages, as described in greater detail in Rules 1.1E(y) and 7.29E(b).⁶

In the Delay Mechanism Filing, the Exchange represented that in conjunction with implementing the Delay Mechanism, it would no longer offer ALO or Day ISO functionality and all Pegged Orders would not be displayed.⁷ Because the Exchange has not yet transitioned to Pillar, the Exchange proposes to amend its rules relating to ALO, Day ISO, and Pegged Orders before transitioning to Pillar, as described in the Delay Mechanism Filing, so that it can

⁵ See Securities Exchange Act Release Nos. 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (Approval Order) and 79993 (February 9, 2017), 82 FR 10814 (February 15, 2017) (SR-NYSEMKT-2017-01) (Notice) (“Trading Rules Filing”). The Exchange also has established market maker obligations when trading on the Pillar trading platform. See Securities Exchange Act Release No. 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR-NYSEMKT-2017-04) (Approval Order).

⁶ See Securities Exchange Act Release Nos. 80700 (May 16, 2017), 82 FR 23381 (May 22, 2017) (SR-NYSEMKT-2017-05) (Approval Order) and 79998 (February 9, 2017), 82 FR 10828 (February 15, 2017) (SR-NYSEMKT-2017-05) (Notice) (“Delay Mechanism Filing”).

⁷ Rule 7.31E (Orders and Modifiers) currently describes ALO Orders, Day ISO Orders, and Pegged Orders. These order types are based on NYSE Arca Equities ALO, Day ISO, and Pegged Orders, including that Primary Pegged Orders are required to have a minimum display quantity. In the Delay Mechanism Filing, the Exchange represented that, before implementing the Delay Mechanism, the Exchange would file a separate proposed rule change to eliminate ALO and Day ISO Orders and related functionality and to provide that Primary Pegged Orders would not be displayed.

implement the Delay Mechanism when it transitions to Pillar. The Exchange proposes additional amendments to its rules, described below, before implementing the Pillar trading platform.

Proposed Rule Changes

To eliminate ALO Orders, the Exchange proposes to delete rule text relating to ALO Orders and Non-Display Remove Modifiers, which is functionality that is operative only in conjunction with a contra-side incoming ALO Order. The Exchange would make the following changes to its rules:

- Delete Rule 7.31E(e)(2) and its subparagraphs, which describe ALO Orders, and replace that section of the Rule with the term “Reserved.”
- Delete Rule 7.31E(d)(2)(B), which provides that Limit Non-Display Orders may be designated with a Non-Display Remove Modifier.
- Delete the last sentence of Rule 7.31E(d)(3)(E) and Rules 7.31E(d)(3)(F) and (G), which describe MPL-ALO Orders and related Non-Display Remove Modifier functionality.
- Delete Rule 7.31E(e)(1)(C), which provides that an MKT Only Order may be designated with a Non-Display Remove Modifier.
- Amend Rule 7.31E(j)(1) to delete the reference to “ALO Order.”
- Amend Rules 7.46E(f)(5)(F)(ii) and (iii) to delete references to ALO Orders.

To effect the changes described in the Delay Mechanism Filing to eliminate Day ISO Orders, the Exchange proposes to delete text relating to Day ISOs and amend its rules as follows:

- Delete Rules 7.31E(e)(3)(C) and (D), which describe Day ISO and Day ISO ALO Orders. The Exchange also proposes to amend Rule 7.31E(e)(3) to provide that

an ISO must be designated IOC and to delete the specific reference to “IOC ISO” in Rule 7.31E(e)(3)(B).

- Amend Rules 7.11E(a)(5P)(A) and 7.11E(a)(5P)(A)(ii) to delete references to “Day ISO” and make related conforming changes.
- Amend Rule 7.31E(a)(2)(C) to delete the last two sentences, which describes how Limit Orders are repriced upon arrival of a Day ISO.
- Amend Rule 7.35E(h)(3)(C) to delete the last sentence, which describes how Day ISOs are processed when transitioning to continuous trading.
- Delete current Rule 7.46E(f)(5)(F)(i)(a), which relates to Day ISO Orders, and the designation of subparagraph (b). The text of current Rule 7.46E(f)(5)(F)(i)(b) would become the last sentence of 7.46E(f)(5)(F)(i).

To effect the changes described in the Delay Mechanism to make all Pegged Orders non-displayed, the Exchange proposes to amend its rules to provide for Primary Pegged Orders to operate similarly to Market Pegged Orders and Discretionary Pegged Orders not only in that they would not be displayed, but also with respect to how they would function (i) when the PBBO is locked or crossed, (ii) in different trading sessions, and (iii) in auctions. To effect these changes, the Exchange proposes to amend its rules as follows:

- Amend Rule 7.31E(h) to move rule text that is currently applicable to Market Pegged Orders and make it applicable to all Pegged Orders, as follows (new text underlined):

(h) Pegged Orders. A Limit Order that does not route with a working price that is pegged to a dynamic reference price. If the designated reference price is higher (lower) than the limit price of a Pegged Order to buy (sell), the working price will

be the limit price of the order. Pegged Orders are not displayed, are ranked Priority 3 – Non-Displayed Orders, and are not eligible to participate in auctions. If the PBBO is locked or crossed, both an arriving and resting Pegged Order will wait for a PBBO that is not locked or crossed before the working price is adjusted and the order becomes eligible to trade. A Pegged Order will be rejected on arrival, or cancelled when resting, if there is no PBO (PBB) against which to peg.

- Amend Rule 7.31E(h)(1) describing Market Pegged Orders to delete, as duplicative of proposed Rule 7.31E(h), the second sentence, sub-paragraphs (A) and (B) of that Rule, and the designation of subparagraph (C). The text of current Rule 7.31E(h)(1)(C) would become the second sentence of Rule 7.31E(h)(1).
- Amend Rule 7.31E(h)(2) defining and describing Primary Pegged Orders to delete the last two sentences and sub-paragraphs (A) and (B) of that Rule as no longer applicable.
- Delete reference to Primary Pegged Orders in Rule 7.31E(d)(1)(C) because Primary Pegged Orders would not include a display quantity and therefore would no longer be able to be combined with Reserve Orders.
- Make conforming changes to Rule 7.31E(h)(3) defining and describing Discretionary Pegged Orders by deleting rule text in Rules 7.31E(h)(3)(A) and (E) that would be duplicative of the proposed new rule text in Rule 7.31E(h), described above.
- Amend Rule 7.18E(c)(4) governing halts in Exchange-listed securities to replace the term “Market Pegged Orders” with “Pegged Orders” because all Pegged Orders would function similarly to Market Pegged Orders during a halt or pause

in an Exchange-listed security.⁸ With this proposed change, all Pegged Orders, including Primary Pegged Orders and Discretionary Pegged Orders, would be processed in the same manner as Market Pegged Orders during a halt or pause in trading of an Exchange-listed security.

- Replace the term “Market Pegged Order” with “Pegged Order” and delete reference to “Discretionary Pegged Orders” in Rule 7.34E(c)(1)(A) because all Pegged Orders would be rejected when entered during the Early Trading Session, regardless of the session designation on the order.

In addition to the proposed amendments that the Exchange described in the Delay Mechanism Filing, the Exchange also proposes to amend its Pillar rules to replace references to “NYSE MKT” with references to “NYSE American.” These proposed changes are consistent with the Exchange’s proposed name change to NYSE American LLC (“NYSE American”), which will become operative upon effectiveness of an amendment to the Exchange’s Certificate of Formation.⁹ Because the Exchange will implement the Pillar trading platform to coincide with the effectiveness of the name change to NYSE American, the Exchange believes that amending the rules governing trading on the Pillar trading platform to use the term “NYSE American” instead of “NYSE MKT” would be appropriate.

To effect the name change, the Exchange proposes to amend Rule 1.1E(k), which defines the term “Exchange,” to replace the term “NYSE MKT” with “NYSE American.” The

⁸ The Exchange also proposes to amend Rule 7.18E(c)(4) to delete references to “Retail Orders.” The Exchange will not offer a Retail Liquidity Program on its Pillar trading platform, and therefore references to Retail Orders are moot. See Trading Rules Filing Notice supra note 5 at 10815.

⁹ See Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR-NYSEMKT-2017-14).

Exchange also proposes to rename the order type “MKT Only Order” as an “Non-routable Limit Order,” and would amend Rules 7.31E(d)(1)(C), (e)(1), (j)(1), and 7.46E(f)(5)(F)(ii) and (iii) accordingly. The Exchange believes that the proposed new name for the “MKT Only Order” describes the functionality associated with this order type because it is not eligible to route. The Exchange would also amend Rule 7.45E(a) to replace references to the term “NYSE MKT LLC” with the term “the Exchange.”

The Exchange also proposes to add to Exchange rules the definition of “NYSE American Marketplace,” which would be defined in Rule 1.1E(e) as “the electronic securities communications and trading facility of the Exchange through which orders are processed or are consolidated for execution and/or display.” This proposed definition is based in part on NYSE Arca Equities Rule 1.1(e), which defines the term “NYSE Arca Marketplace” as “the electronic securities communications and trading facility designated by the Board of Directors through which orders of Users are consolidated for execution and/or display.” The Exchange proposes a non-substantive difference from NYSE Arca Equities Rule 1.1(e) not to include reference to the phrase “designated by the Board of Directors” because the Exchange’s Board of Directors does not designate which technology at the Exchange performs the various functions of the Exchange. The Exchange also proposes not to use the term “Users” as moot. The Exchange further proposes a difference to add that the term “NYSE American Marketplace” includes the facility where orders are processed, in addition to the facility where orders are consolidated for execution and/or display.

The Exchange believes that adding the term “NYSE American Marketplace” to Exchange rules provides for a term that describes the Exchange’s facilities where orders are processed or are consolidated for execution and/or display. The Exchange proposes to amend Rule 7.29E(a)

and Rule 7.29E(b)(1)(C) to replace the term “Exchange” with “NYSE American Marketplace” because the Exchange believes that the term “NYSE American Marketplace” in this context is more descriptive.

The Exchange also proposes to amend Rule 7.29E(b)(1)(A) and (B) to add the term “NYSE American Marketplace” in order to provide specificity that the Delay Mechanism would be operative for inbound and outbound communications to and from ETP Holders. Inbound and outbound communications from ETP Holders, that are processed through the same electronic securities communications and trading facilities as orders, such as log on or log out messages, would be subject to the Delay Mechanism. The Exchange believes that this proposed rule change is consistent with the rules governing the Delay Mechanism. Specifically, in the Delay Mechanism Filing, the Exchange described that the Delay Mechanism functionality is designed to provide for additional latency under the same circumstances as the intentional latency on Investors Exchange LLC (“IEX”).¹⁰ IEX Rule 11.510, upon which Rule 7.29E is based, specifies that the IEX intentional delay is for inbound and outbound communications to IEX’s “System.” IEX defines “System” to mean “the electronic communications and trading facility designated by the Board through which securities orders of Members are consolidated for ranking, execution, and when applicable, routing.”¹¹ The Exchange believes that its proposed definition of “NYSE American Marketplace” describes facilities that provide similar functionality as the facilities defined in the IEX term “System.” As such, the Exchange’s proposal to add the phrase “the NYSE American Marketplace” in Rule 7.29E(b) would make clear that the Delay Mechanism would be added to all inbound and outbound communications to

¹⁰ See Delay Mechanism Filing Notice, supra note 6 at 10829.

¹¹ See IEX Rule 1.160(nn).

and from facilities where orders are processed or are consolidated for execution and/or display. Accordingly, the Exchange believes that adding the term “NYSE American Marketplace” to Rule 7.29E(b) is consistent with the original intent of the rule and provides greater specificity and transparency in Exchange rules regarding how the Delay Mechanism would function, without any differences.

Finally, the Exchange proposes to update Exchange rules to reflect recent changes to Supplementary Material .70 to Rule 67 – Equities that amended the date when certain data would be published by the Exchange.¹² The Exchange proposes to amend Commentary .70 to Rule 7.46E to make the same date change.

The Exchange will announce the implementation of its transition to Pillar, and thus when these proposed rule changes would be implemented, by Trader Update, which the Exchange anticipates will be in the third quarter of 2017.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹³ in general, and furthers the objectives of Section 6(b)(5),¹⁴ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a

¹² See Securities Exchange Act Release No. 80648 (May 10, 2017), 82 FR 22590 (May 16, 2017) (SR-NYSEMKT-2017-24) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that its proposed rule change to eliminate ALO Orders, Day ISOs, and related functionality would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed deletions are designed to work in conjunction with the Exchange's Delay Mechanism, as described in the Delay Mechanism Filing. The proposed changes would also remove impediments to and perfect the mechanism of a free and open market and a national market system because they would simplify the Exchange's trading model on Pillar and operate more similarly to IEX, which also does not offer ALO, Day ISO, or related functionality. The Exchange further believes that deleting these order types and related functionality would be consistent with the protection of investors and the public interest because the Exchange has not implemented Pillar and therefore these order types are not yet available for trading on Pillar. Deleting these order types before implementation therefore would not impact any market participants.

The Exchange believes that its proposed rule change to make all Pegged Orders be non-displayed is consistent with the purpose of the Delay Mechanism, which is to allow non-displayed Pegged Orders to update in real-time based on changes to the PBBO before a new, incoming order generated in response to the same PBBO change can access the resting order. By changing Primary Pegged Orders to be non-displayed, Primary Pegged Orders would be able to be re-priced in real-time as well. The Exchange therefore believes that this proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would allow for Primary Pegged Orders to benefit from a market structure that includes a Delay Mechanism. The proposed changes would also remove

impediments to and perfect the mechanism of a free and open market and a national market system because the proposed functionality is based on how IEX operates, which also does not offer displayed pegging functionality.¹⁵ In addition, the Exchange believes that the proposed change is consistent with the protection of investors and the public interest because the Exchange has not implemented its Pillar trading platform and therefore a displayed Primary Pegged Order is not yet available for trading on Pillar. Amending Primary Pegged Order functionality before implementation would therefore not impact any market participants trading.

The Exchange believes that the proposed amendment to change references from “NYSE MKT” to “NYSE American” is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system because it would ensure that the Exchange’s rules accurately reflects the name of the Exchange that will be in effect when it transitions to Pillar, which will make the rule book easier to navigate.

The Exchange believes that adding to Exchange rules the term “NYSE American Marketplace,” which is based in part on the term “NYSE Arca Marketplace” in NYSE Arca Equities Rule 1.1(k), would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would add a term designed to describe with greater specificity the Exchange’s facility that processes or executes and/or displays orders. The Exchange further believes that amending Rules 7.29E(a) and (b) to add the term “NYSE American Marketplace” would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing specificity of which communications would be subject to the Delay Mechanism. The Exchange believes that the proposed amendment to use this term in Rule 7.29E(b) is a non-substantive change that is consistent with the original

¹⁵ See IEX Rule 11.190(a)(3) (defining Pegged Order on IEX).

intent of the rule to provide for additional latency under the same circumstances as IEX. As such, the proposed change is designed to provide greater specificity and transparency in Exchange rules regarding how the Delay Mechanism would function, without any differences.

Finally, the Exchange believes that the proposed change to Commentary .70 to Rule 7.46E would remove impediments to and perfect the mechanism of a free and open market and a national market system by updating Rule 7.46E to reflect recent changes to Supplementary Material .70 to Rule 67 – Equities that amended the date when certain data would be published by the Exchange.

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 proposed changes to ALO, Day ISO, and Pegged Orders are designed to implement changes previously described in the Delay Mechanism Filing. As such, these proposed changes are designed to provide a competitive trading model to IEX by offering similar order type functionality as IEX in combination with the Exchange’s Delay Mechanism. The Exchange’s proposal is therefore designed to promote competition by offering a choice of exchanges to those ETP Holders and issuers that prefer to trade or list on an exchange that offers a delay mechanism and the related order type offerings. The proposed changes to change the name of the Exchange to “NYSE American” and add the term “NYSE American Marketplace” are not designed to address any competitive issues but rather are designed to provide greater specificity in Exchange rules regarding the name of the Exchange and a term to define the Exchange’s facility that executes and/or displays 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

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 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) of the Act¹⁶ and Rule 19b-4(f)(6) thereunder.¹⁷

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁸ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would allow the proposed rule change to be operative at the same time that the Exchange begins its transition to Pillar and implements the Delay Mechanism, which the Exchange anticipates will be on July 24, 2017. The Exchange states

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ 17 CFR 240.19b-4(f)(6)(iii).

that a waiver will thereby reduce any potential for confusion of how orders would be processed when the Exchange transitions to Pillar and implements the Delay Mechanism. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the 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.

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-2017-38 on the subject line.

²⁰ 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).

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-2017-38. 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-2017-38, 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.²¹

Jill M. Peterson
Assistant Secretary

²¹ 17 CFR 200.30-3(a)(12).