



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68520; File No. SR-NYSEMKT-2012-80)

December 21, 2012

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 953NY - Trading Halts and Suspensions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 10, 2012, 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 Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 Rule 953NY - Trading Halts and Suspensions. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 Rule 953NY by adopting a provision governing the nullification of trades that occur while the options class is subject to a trading halt. This proposal is based on and substantially similar to Rule 1092(c)(iv)(A) of NASDAQ OMX PHLX, LLC ("PHLX").⁵

Specifically, the Exchange proposes to adopt Commentary .04 to Rule 953NY, which provides that any trade that occurs during a trading halt on the Exchange in a given option shall be nullified.

Rule 953NY sets forth the circumstances when the Exchange may halt trading in an options contract or options series. Such trading halts are applicable to both electronic and open-outcry trading. Pursuant to Rule 953NY(a), NYSE Amex shall halt or suspend the trading of options whenever the Exchange deems such action appropriate in the interests of a fair and orderly market and to protect investors. Among the factors that may be considered are: (i) the trading in the underlying stock or Exchange Traded Funds ("ETF") has been halted or suspended in the primary market; (ii) the opening of such underlying stock or ETF in the primary market has been delayed because of unusual circumstances; (iii) the Exchange has been advised that the

⁵ See Securities Exchange Act Release No. 57712 (April 24, 2008) 73 FR 24100 (May 1, 2008). Approval Order for SR-Phlx-2007-69, as amended.

issuer of the underlying stock or ETF is about to make an important announcement affecting such issuer; or (iv) other unusual conditions or circumstances are present. In addition, pursuant to Rule 953NY(b), the Exchange shall halt trading in any equity option (including options overlying ETFs), when the underlying security is paused.⁶

Notwithstanding a regulatory or non-regulatory trading halt in an options class, the Exchange recognizes that there could be occurrences where an aberrant trade might still occur after the Exchange has halted trading in a given options class. For example, this could happen because of a temporary systems outage, a communications issue between the electronic and floor-based markets, or other type of in-flight messaging scenario where the Exchange's automatic execution system executed an order, even though the options had been halted prior to the time of execution. Because the Exchange would have already halted trading of the option class, either because it was warranted in the interest of a fair and orderly market and the protection of investors pursuant to Rule 953NY(a), or required pursuant to Rule 953NY(b) because the underlying security was paused, the Exchange does not believe that any trade that takes place after an options class that has been halted on the Exchange should stand. Proposed Commentary .04 will require the Exchange to nullify these aberrant trades. The Exchange notes that executions occurring prior to a trading halt in an options class but not yet reported to the Exchange, will still be reported for dissemination to OPRA after the options have halted. Such trades would not be subject to nullification by the Exchange pursuant to proposed Commentary .04.

Under existing rules, the Exchange may only nullify a trade which occurred during a

⁶ A trading pause in an underlying security is triggered when the price of the security falls or rises 10% or more in a rolling 5-minute window. Trading pauses are initiated by the primary market where the stock trades.

trading halt if, (i) pursuant to Rule 975NY the trade qualifies as an Obvious or Catastrophic Error, or (ii) pursuant to Rule 965NY Commentary .01, a Trading Official determines that the execution of such trade was done in violation of certain Exchange rules governing open outcry trading.⁷ The addition of proposed Commentary .04 to Rule 953NY will expand the Exchange's authority to nullify trades that may occur during a trading halt, which the Exchange believes is in keeping with the maintenance of a fair and orderly market and the protection of investors.

The Exchange notes that the PHLX Rule 1092(c)(iv) also includes other provisions related to trading halts and the nullification of trades. Paragraphs (B) -(C) of the PHLX rule deal with the nullification of an options trade whenever the underlying security or a certain percentage of the components of an underlying index have halted, regardless of whether the options themselves have halted. Exchange rules do not require that an options class be halted whenever the underlying security halts, therefore it would be inconsistent to nullify a trade simply because the underlying security or index components halted, unless the Exchange had also halted the trading of options overlying such security or index.⁸ The Exchange only proposes to nullify a trade in the event the options have been halted by the Exchange, and therefore is not proposing to adopt PHLX Rule 1092(c)(iv)(B)-(C). Additionally, paragraph (D) of the PHLX rule deals with Treasury securities. The Exchange does not trade options on Treasury securities; therefore this provision is not relevant to this filing.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act

⁷ A trade may also be nullified, without Exchange interaction, if all parties to the trade agree to the nullification.

⁸ The Exchange notes that Rule 953NY(a) states that the Exchange may consider the halting of an underlying security as a factor to be taken into consideration when deciding whether to halt trading in the options overlying such security, and generally will do so and will halt an options class whenever an underlying security or index halts.

of 1934 (the “Act”),⁹ in general, and furthers the objectives of Section 6(b)(5),¹⁰ in particular, in that 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule changes are consistent with the Act because permitting the Exchange to nullify trades that occur during a trading halt helps to ensure that NYSE Amex may continue to meet its obligation to maintain a fair and orderly market and protect investors. In particular, the Exchange believes that the proposal promotes just and equitable principles of trade because it will ensure that when the Exchange is halted for trading, no trades that mistakenly were executed during the halt will be permitted to stand, thereby assuring consistent treatment of orders during a trading halt. Furthermore, the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system by assuring that when trading is halted, no executions may occur and any aberrant trades are nullified.

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.

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.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

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.

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-2012-80 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

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-2012-80. 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 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-NYSEMARKT-2012-80 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.¹³

Kevin M. O'Neill
Deputy Secretary

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¹³ 17 C.F.R. 200.30-3(a)(12).