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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-69827; File No. SR-NYSEMKT-2013-54)

June 21, 2013

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making a Non-Substantive, Technical Amendment to Exchange Rule 900.3NY(o) to Correct a Cross Reference to Exchange Rule 964NY

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 June 17, 2013, 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 make a non-substantive, technical amendment to Exchange Rule 900.3NY(o) to correct a cross reference to Exchange Rule 964NY. The text of 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, on the Commission’s website at <http://www.sec.gov>, 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 is proposing to make a non-substantive, technical correction to Exchange Rule 900.3NY(o) in order to update a cross reference to Exchange Rule 964NY. Current Rule 900.3NY(o) incorrectly cross references Rule 964NY(c)(2)(D) with respect to the routing instructions for NOW Orders. The Exchange proposes to correct the citation to cross reference Rule 964NY(c)(2)(E).

As described in Rule 900.3NY(o), a "NOW Order" is a Limit Order that is to be executed in whole or in part on the Exchange, and the portion not so executed is routed to one or more NOW Recipients for immediate execution as soon as the order is received by the NOW Recipient.<sup>4</sup> Currently, Rule 900.3NY(o) incorrectly provides that a NOW Order is routed pursuant to Rule 964NY(c)(2)(D), which relates to the matching of an inbound order against orders in the Working Order File.

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<sup>4</sup> A NOW Recipient is defined as "any Market Center (1) with which the Exchange maintains an electronic linkage, and (2) that provides instantaneous responses to NOW Orders routed from the System." NYSE Amex Options Rule 900.2NY(44).

The routing provisions actually governing the routing of NOW Orders are found in Rule 964NY(c)(2)(E), and, as applied to NOW Orders, provide that if the NOW Order has not been executed in its entirety on the Exchange, the order will be routed for execution to one or more NOW Recipients. Specifically, Rule 964NY(c)(2)(E)(iii) states that “if the order locks or crosses the NBBO, it will be routed via routing broker to the away market(s) displaying the National Best Bid or Offer Price.” Following the routing of the NOW Order, and in accordance with the terms of such order, any portion not immediately executed by the NOW Recipient is cancelled. Accordingly, the Exchange proposes to correct Rule 900.3NY(o) to cross-reference Rule 964NY(c)(2)(E).

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes it is appropriate to make technical corrections to its rules so that Exchange members and investors have a clear and accurate understanding of the meaning of the Exchange’s rules. The correction of the cross reference in Rule 900.3NY(o) will serve to eliminate a potential source of confusion for Exchange Participants.

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

The proposed rule change is non-substantive and therefore does not implicate the competition analysis.

### C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</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 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>9</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>10</sup> the Commission may 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 stated that it believes that this proposal is non-controversial and will not significantly affect the protection of investors because the Exchange is not proposing any substantive changes and is merely correcting an inaccuracy in the Exchange's rules. According

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

to the Exchange, the correction of the inaccurate cross reference in the Exchange's rules will eliminate member confusion and provide clarity on how the rules apply. Based on the Exchange's statements, the Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby grants the Exchange's request and waives the 30-day operative delay.<sup>11</sup>

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](mailto:rule-comments@sec.gov). Please include File No. SR-NYSEMKT-2013-54 on the subject line.

##### Paper comments:

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

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<sup>11</sup> For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File No. SR-NYSEMKT-2013-54. 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 No. SR-NYSEMKT-2013-54 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>12</sup>

Jill M. Peterson  
Assistant Secretary

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

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