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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-71487; File No. SR-NYSEMKT-2014-15]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13 - Equities to Modify The Manner By Which MPL-ALO Orders Trade When Triggered By Arriving Interest

February 5, 2014.

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 January 31, 2014, 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 Rule 13 - Equities to modify the manner by which MPL-ALO Orders trade when triggered by arriving interest. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 13 – Equities (“Rule 13”) to modify the manner by which MPL-ALO Orders trade when triggered by arriving interest.

The Exchange recently amended Rule 13 to add a new Midpoint Passive Liquidity Order (“MPL Order”), which is an undisplayed limit order that would automatically execute at the mid-point of the protected best bid (“PBB”) and the protected best offer (“PBO”). An MPL Order could interact with any incoming order, including another MPL Order, and could execute at prices out to four decimal places.⁴

Pursuant to paragraph (e) of Rule 13 governing MPL Orders, users may designate an MPL Order with an add-liquidity-only (“ALO”) modifier (“MPL-ALO Order”). An MPL-ALO Order would not execute on arrival, even if marketable, but would remain non-displayed in the book until triggered to trade by arriving contra-side marketable interest. For example, if there is a buy MPL Order “A” for 100 shares resting on the book when a sell MPL-ALO Order “B” for 100 shares arrives, even though B is

⁴ See Securities Exchange Act Release No. 71329 (Jan. 16, 2014), 79 FR 3904 (Jan. 23, 2014) (SR-NYSEMKT-2013-84) (Order approving the MPL Order).

marketable against A, both A and B remain undisplayed in the book until B is triggered to trade.⁵

The rule currently provides that an MPL-ALO Order would only be eligible to trade against incoming contra-side interest and would not interact with contra-side interest resting on the book. Accordingly, if B is triggered to trade by an arriving buy MPL Order “C” for 100 shares, the rule provides that B would not trade with A. Rather, B would only trade with the arriving interest, C. The Exchange believes that it is appropriate, however, that when a resting MPL-ALO is triggered to trade, it should be eligible to trade with both the arriving interest that triggered the MPL-ALO Order and any resting contra-side interest that was present before the MPL-ALO Order arrived. The Exchange believes that permitting the MPL-ALO to interact with both arriving and resting contra-side interest is consistent with the Exchange’s current allocation model, set forth in Rule 72, which considers all interest at a price point on parity by agent.⁶ It would also ensure that any resting interest that arrived before the triggering interest could participate in the execution.

Accordingly, the Exchange proposes to amend paragraph (e) of Rule 13 governing MPL Orders and delete the sentence, “An MPL-ALO Order is only eligible to trade against incoming contra-side interest, and will ignore contra-side interest resting in the NYSE book” and replace it with the following new rule text:

If triggered to trade, an MPL-ALO Order will be eligible to trade with both arriving and resting contra-side interest, but will not trade with a contra-side MPL-ALO Order. If an MPL-ALO Order trades with resting

⁵ The Exchange notes that this example would work the same if A were undisplayed non-MPL reserve interest eligible to trade at the same price as B.

⁶ Paragraph (a) of Rule 13 governing MPL Orders already specifies that MPL Orders are allocated on parity by agent consistent with Rule 72 - Equities.

interest, the MPL-ALO Order will be considered the liquidity providing order.

As proposed, using the example above, when C arrives and triggers B to trade, B would be eligible to trade with both A and C. Consistent Rule 72(c)(viii) - Equities, which provides that shares will be allocated in round lots, and Rule 72(c)(viii)(A) - Equities, which provides that an allocation wheel for each security begins with the participant whose interest is entered or retained first on a time basis, because B is seeking an execution of 100 shares and A was entered before C, B would execute with A only. Although the arrival of C triggered the MPL-ALO Order, consistent with the Exchange's allocation model, it would not receive an execution.

The Exchange notes that if the execution size were larger than a round lot, C could receive an execution. Modifying the example above, if A were for 1000 shares, B were for 600 shares, and C were for 1000 shares, assuming A and C are different participants on the parity wheel, B would execute 300 shares with A and 300 shares with C. Accordingly, both A and C would get an execution opportunity.

The Exchange notes that an MPL-ALO Order is always a liquidity providing order. Accordingly, the Exchange proposes to amend the rule to specify that if an MPL-ALO Order trades with resting interest, the MPL-ALO Order will be considered the liquidity providing order. Finally, because an MPL-ALO Order is always a liquidity providing order, contra-side MPL-ALO Orders would never interact.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)⁷ of the Act, in general,

⁷ 15 U.S.C. 78f(b).

and furthers the objectives of Section 6(b)(5),⁸ in particular, in that it is designed to 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, in general, to protect investors and the public interest.

The Exchange believes that the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system because the modification to the manner that an MPL-ALO Order interacts with both arriving and resting interest is designed to harmonize the treatment of MPL-ALO Orders with the Exchange's existing allocation rules. Specifically, Rule 72 - Equities already provides that interest at a price point is allocated on parity by agent. The Exchange believes it is appropriate to apply this allocation model consistently across all executions at the Exchange, and not exclude any interest because of sequencing of orders. As such, a resting MPL-ALO Order, when triggered to trade, would be eligible to trade with both arriving interest that triggered the trade, as well as any resting interest that may have been present when the MPL-ALO Order arrived. The Exchange further believes that the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest because it ensures that all interest eligible to interact with an MPL-ALO Order based on price would be considered for an execution opportunity once that MPL-ALO Order has been triggered to trade, consistent with existing Rule 72 - Equities.

The Exchange further believes that amending the rule text to be clear that MPL-ALO Orders would not interact with other MPL-ALO Orders removes impediments to

⁸ 15 U.S.C. 78f(b)(5).

and perfects the mechanism of a free and open market because it provides transparency in Exchange rules regarding the operation of MPL-ALO Orders. This aspect of the proposed rule change also promotes just and equitable principles of trade because it ensures that two orders designed to be liquidity providing will not execute against one another. Finally, the Exchange believes that amending the rule text to clarify that if an MPL-ALO Order trades with resting interest, the MPL-Order would be considered the liquidity providing order removes impediments to and perfects the mechanism of a free and open market because it provides transparency in Exchange rules regarding which interest would be considered liquidity providing in such a scenario.

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 the proposed changes to the MPL-ALO Order will enhance order execution opportunities for member organizations by ensuring that MPL-ALO Orders would be eligible to interact with all interest available at a price point, consistent with existing Exchange rules governing order allocation.

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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6)¹² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹³ 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 waiver of the 30-day operative delay is appropriate because the Commission has already approved the adoption of the new MPL Order type. In addition, the Exchange stated that it has not yet implemented the MPL Order out of concern that the existing rule text would limit the

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 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.

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

opportunities for execution. By waiving the operative delay, the Exchange would be able to expeditiously make MPL Orders, including MPL-ALO Orders, available to member organizations in a manner that is consistent with existing Rule 72, thereby enhancing order execution opportunities for all member organizations. Thus, the Exchange believes that the proposed rule change would protect investors and the public interest because it would enable all interest that is eligible to interact at a price point to be considered for a trade with an MPL-ALO Order. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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)¹⁵ of the Act to determine whether the proposed rule 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:

¹⁴ 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).

¹⁵ 15 U.S.C. 78s(b)(2)(B).

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-2014-15 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.

All submissions should refer to File Number SR-NYSEMKT-2014-15. 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-2014-15 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.¹⁶

Kevin M. O'Neill,
Deputy Secretary.

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¹⁶ 17 CFR 200.30-3(a)(12).