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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-72084; File No. SR-NYSEMKT-2014-42]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 980NY to Adopt Rules Governing an Opening Auction Process for Electronic Complex Orders and to Amend and Reorganize Existing Rules Specifying Available Electronic Complex Order Types and Modifiers
May 2, 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 April 28, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 980NY (Electronic Complex Order Trading) to adopt rules governing an opening auction process for Electronic Complex Orders and to amend and reorganize existing rules specifying available Electronic Complex Order types and modifiers. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 980NY (Electronic Complex Order Trading) to adopt rules governing an opening auction process for Electronic Complex Orders and to amend and reorganize existing rules specifying order types and modifiers applicable to Electronic Complex Orders.

Opening Auction Process for Electronic Complex Orders

The Exchange is proposing to amend Rule 980NY(c) by establishing subsection (i) to describe how orders would be handled by the Complex Matching Engine ("CME") during a new opening auction process for Electronic Complex Orders that would allow the Exchange to offer eligible trading interest at a single-price opening. Currently, there is no single-price opening. Rather, the CME begins processing each Electronic Complex Order in the Consolidated Book based on price/time priority after all of the individual component option series that make up a complex order strategy have opened. By adopting the proposed opening auction process for the CME, the Exchange is seeking to maximize both price discovery and execution opportunities for participants utilizing Electronic Complex Orders. The Chicago Board Options Exchange ("CBOE") recently adopted similar rules to describe how their Complex Order Book ("COB")

functions at the opening of trading.⁴ The Exchange notes that the proposed changes to Rule 980NY regarding the new opening auction process for Electronic Complex Orders are substantially similar in all material respects to those of the CBOE.⁵

Pursuant to proposed Rule 980NY(c)(i)(A), Electronic Complex Orders would not participate in opening auctions for individual component option series legs conducted pursuant to Rule 952NY(b). The Exchange further proposes to provide that the CME would not begin processing Electronic Complex Orders until all of the individual component option series legs that make up a complex order strategy have opened. The intent of this paragraph is to make clear to market participants that an Electronic Complex Order is not eligible to trade until such time that all option series associated with that order have opened for trading. The CME will not execute any transactions in Electronic Complex Orders involving un-opened option series.

Pursuant to proposed Rule 980NY(c)(i)(B), the CME would use an opening auction process if there are Electronic Complex Orders on both sides of the Consolidated Book that are marketable against each other and that are priced within the derived Complex National Best Bid and Offer (“Complex NBBO”).⁶ The resulting execution would occur at a market clearing price that is inside the derived Complex NBBO and that matches Electronic Complex Orders with

⁴ See Securities Exchange Act Release No.68844 (February 6, 2013), 78 FR 9953 (February 12, 2013) (SR-CBOE-2013-007).

⁵ See CBOE Rule 6.53C.11(b), which provision was one of several discussed in CBOE’s recent filing (see *id.*). The Exchange notes, however, that this filing differs from the CBOE’s recent filing (see *id.*) in that it provides specificity about the market clearing price and cross-references existing Exchange rules regarding auction pricing (see *infra* n. 6).

⁶ The derived Complex NBBO will be derived by using the best prices for the individual leg markets comprising the Electronic Complex Order as disseminated by OPRA, that when aggregated create a derived NBBO for that same strategy.

each other to the extent marketable.⁷ In determining priority, the CME would give priority to Electronic Complex Orders whose net price is better than the market clearing price first, and then to Electronic Complex Orders at the market clearing price.⁸

Example #1

This example will show how the CME would conduct an opening auction where the market clearing price is at the midpoint of the derived Complex NBBO.

Assume the derived Complex NBBO for a given complex order strategy is \$1.10 - \$1.20 (midpoint = 1.15). Assume there are four Electronic Complex Orders in the Consolidated Book for the same strategy; two buy orders and two sell orders, each order represents 100 units of the same strategy. The first sell order is priced at \$1.11 and the second sell order is priced at \$1.13. The first buy order can pay 1.19 and the second can pay \$1.17. When the CME opens, (at a

⁷ The “market clearing price” for Electronic Complex Orders is similar to the “opening price” for an individual series as described in Rule 952NY(c). Specifically, the market clearing price for an Electronic Complex Order will be the price, as determined by the System, at which the most volume can be traded at or nearest to the midpoint of the initial uncrossed derived Complex NBBO. Midpoint pricing will not occur if such price would result in the violation of the limit price of the Electronic Complex Order(s) involved. Instead, the market clearing price would be the limit price of the order(s) at which the most volume can be traded. Because listed options may not be priced in sub-penny increments nor will the OCC clear options at sub-penny prices, if the calculated midpoint price results in a sub-penny price, the market clearing price will round down to the nearest even penny (*i.e.*, a calculated midpoint price of \$1.005 will round to \$1.00). The Exchange notes that CBOE, which is also subject to the same restrictions on sub-penny pricing of listed options, did not disclose in their filing (see *supra* n. 3) whether it would round the market clearing price (up or down) to the nearest whole cent if mid-point pricing resulted in a sub-penny market clearing price.

⁸ The Exchange notes that Electronic Complex Orders residing in the Consolidated Book at the opening of trading that are not marketable against other Electronic Complex Orders do not participate in the auction process. As is the case today, these orders will automatically execute against individual orders or quotes residing in the Consolidated Book after the CME opens, provided the Electronic Complex Order can be executed in full (or in a permissible ratio) by the orders or quotes in the Consolidated Book. See current Rule 980NY(c)(ii) which the Exchange is proposing to renumber as Rule 980NY(c)(ii)(B). The Exchange notes that this functionality is similar to CBOE Rule 6.53C.11(a), which the CBOE discussed in its recent filing. See *supra* n. 3.

market clearing price nearest the mid-point where the most volume can trade) the \$1.11 sell order for 100 units will execute against the \$1.19 buy order for 100 units and the \$1.13 sell order for 100 units will execute against the \$1.17 buy order for 100 units (orders are ranked and executed based on price priority). This would result in all volume trading at a single market clearing price of \$1.15, which in this example is the exact mid-point price of the derived Complex NBBO.

Example #2

This example will show how the CME would conduct an opening auction where the market clearing price is not equal to the midpoint of the derived Complex NBBO.

Assume the derived Complex NBBO for a given complex order strategy is \$1.10 - \$1.20 (midpoint = 1.15). Assume there are three Electronic Complex Orders in the Consolidated Book, all for the same complex order strategy. The first order is a sell order priced at \$1.19 for 20 units, the second order is a sell order priced at \$1.18 for 10 units, and the third order is a buy order paying \$1.19 for 50 units. When the CME opens, 30 units of the buy order would trade against the two sell orders, with the \$1.18 sell order for 10 units having first priority followed by the \$1.19 sell order for 20 units (orders are ranked and executed based on price priority). Because the market clearing price in this example could not equal the midpoint (\$1.15), as that price would violate the limit price of both sell orders, the market clearing price would be \$1.19, as that is the price at which the most volume could trade. This would result in the CME conducting the auction at the market clearing price of \$1.19. In this example, the remaining 20 units of the buy order would be subject to processing under Rule 980NY (e.g., remain in the Consolidated Book if not marketable against the individual orders and quotes in the Consolidated

Book or other Electronic Complex Orders in the Consolidated Book, or execute if marketable subject to the applicable priority and price-check parameters).

The opening auction process of the CME as described in proposed Rule 980NY(c)(i)(B) is consistent with the opening auction process for Electronic Complex Orders at the CBOE.⁹

The Exchange is proposing to adopt Rule 980NY(c)(i)(C) to explain that Electronic Complex Orders that are not executed during the opening auction process are eligible to trade during Core Trading against the individual quotes and orders residing in the Consolidated Book of the same series that comprise the complex order strategy. The processing of Electronic Complex Orders during Core Trading is done in accordance with Rules 980NY(c)(i)-(iii), which the Exchange is proposing to renumber as Rules 980NY(c)(ii)(A)-(C).

Consistent with the foregoing changes, the Exchange also proposes to re-number the remaining subsections of Rule 980NY(c)(i)-(iii) under a new section heading, “Execution of Complex Orders During Core Trading,” with no changes to the substance of the rule text.

Additionally, the Exchange is proposing to amend the text of Rule 980NY(c) by deleting the representation that Electronic Complex Orders will be executed at the best available price available. Because existing and proposed rules explain precisely how Electronic Complex Orders are priced (i.e. at a market clearing price during an opening auction process, or at the prices of the individual orders and quotes in the Consolidated Book during Core Trading), the reference to “the best available price” is superfluous. The proposed resulting language of Rule 980NY(c) would be consistent with rules describing how Electronic Complex Orders are traded on NYSE Arca.¹⁰

Order Types and Contingencies Applicable to Electronic Complex Orders

⁹ See CBOE Rule 6.53C.11(b).

¹⁰ See NYSE Arca Rule 6.91(a)(2)

The Exchange also proposes to amend and reorganize Rule 980NY(d), which explains order types, contingencies and modifiers applicable to Electronic Complex Orders, as follows:

- The CME presently accepts only Limit Orders¹¹ and Limit Orders designated as PNP Plus.¹² The Exchange proposes to amend Rule 980NY(d) to codify this functionality. As proposed, Rule 980NY(d)(1) would state that Limit Orders and Limit Orders designated as PNP Plus are valid types of Electronic Complex Orders. Complex Limit Orders and Complex Limit Orders designated as PNP Plus are processed in the same manner as a similarly marked single-leg order.
- Proposed Rule 980NY(d)(2) would provide that Electronic Complex Orders may be designated as Fill-or-Kill (“FOK”)¹³ and All-or-None (“AON”)¹⁴. The use of FOK or AON contingency is consistent with complex order trading at other options exchanges.¹⁵ Electronic Complex Orders with a FOK or AON contingency would be processed in the same manner as a similarly marked single-leg order.
- Currently, the Rule 980NY(d) provides that Electronic Complex Orders may be entered as IOC¹⁶ or Day,¹⁷ and the Exchange now proposes making the Good-till-Cancel (“GTC”)¹⁸ modifier available for Electronic Complex Orders. As

¹¹ See NYSE MKT Rule 900.3NY(b).

¹² See NYSE MKT Rule 900.3NY(w).

¹³ See NYSE MKT Rule 900.3NY(l).

¹⁴ See NYSE MKT Rule 900.3NY(d)(4).

¹⁵ See CBOE Rule 6.53C(b) and NYSE Arca Rule 6.91(b).

¹⁶ See NYSE MKT Rule 900.3NY(k).

¹⁷ See NYSE MKT Rule 900.3NY(m).

¹⁸ See NYSE MKT Rule 900.3NY(n).

proposed, Rule 980NY(d)(3) would provide that Electronic Complex Order may be entered as IOC, Day, or GTC.¹⁹ The use of GTC as a time-in-force is consistent with complex orders trading at other option exchanges.²⁰ Electronic Complex Orders marked IOC, Day or GTC would be processed in the same manner as similarly marked single- leg orders.

Implementation

The Exchange will implement the proposed rule changes described above upon the implementation of technology updates applicable to the CME. The Exchange will announce the implementation date of the proposed rule change by Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act²¹ in general and furthers the objectives of Section 6(b)(5) of the Act²² in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

Specifically, the Exchange believes the proposed rule governing the opening auction process via the CME for Electronic Complex Orders increases opportunities for all types of market participants (e.g., public customers, broker-dealers and market-makers) to participate in trading with Electronic Complex Orders. This participation may promote liquidity and result in better prices for customers throughout the trading day, including when the CME opens, which, in turn, protects investors and advances public interest.

¹⁹ See NYSE MKT Rule 900.3NY(n).

²⁰ See CBOE Rule 6.53C(c)(iii) and NYSE Arca Rule 6.91(b).

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

The Exchange also believes that codifying the available types of orders eligible to be entered as Electronic Complex Orders, reorganizing the variations of Electronic Complex Order types available on the Exchange and listing those in a clear and precise structure, will remove impediments to and perfect the mechanism of a free and open market. In addition, adopting the GTC, FOK and AON designations will further serve to remove impediments to a free an open market and a national market system by affording market participants on NYSE Amex Options similar investment choices to what is available at other market centers.²³

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. As noted above, the Exchange believes that expanding the variations of order types via contingencies and modifiers will encourage more Electronic Complex Orders to the Exchange, which is pro-competitive. Further the planned enhancement to provide a single price open, if possible, within the CME increases opportunities for all types of market participants (e.g., public customers, broker-dealers and market-makers) to participate in the trading of complex orders. This participation may promote liquidity and result in better prices for customers throughout the trading day, including when the CME opens. The Exchange does not believe that the changes proposed by this filing imposes any burden on other Exchanges as the most substantive change proposed, that being the complex order opening auction, is similar to functionality that is already available on at least one competing options Exchange.²⁴ The Exchange has found that when multiple Exchanges introduce similar functionality, other Exchanges move to enhance their own systems and product offerings which are generally beneficial to all investors.

²³ See supra nn. 14,19.

²⁴ See supra nn. 3,8.

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 Act²⁵ and Rule 19b-4(f)(6) thereunder.²⁶ 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.²⁷

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁸ of the Act to determine whether the proposed rule change should be approved or disapproved.

²⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁶ 17 CFR 240.19b-4(f)(6).

²⁷ 17 CFR 240.19b-4(f)(6)(iii). 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.

²⁸ 15 U.S.C. 78s(b)(2)(B).

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-2014-42 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-2014-42. 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 at 100 F Street, NE, Washington, DC 20549-1090 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-NYSEMKT-2014-42, 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.²⁹

Kevin M. O'Neill,
Deputy Secretary.

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²⁹ 17 CFR 200.30-3(a)(12).