



8011-01
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79642; File No. SR-NYSEMKT-2016-118)

December 21, 2016

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 123D - Equities and the Listed Company Manual

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 December 13, 2016, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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 123D - Equities and the Listed Company Manual to eliminate the requirement for Floor Official approval for halts in trading. 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 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Rule 123D - Equities and the Company Guide to eliminate the requirement for Floor Official⁴ approval before halting trading in a security. The Exchange believes that in today's trading environment, the requirement for Floor Official approval before halting trading in a security is unnecessary and duplicative of Exchange obligations to assess whether to halt trading in a security under Section 402 of the NYSE MKT Company Guide.

Current Rule 123D(d) - Equities provides that once trading has commenced, trading may only be halted with the approval of a Floor Governor or two Floor Officials and that an Executive Floor Governor, or in their absence a Senior Floor Governor, should be consulted if it is felt that trading should be halted in a bank or brokerage stock due to a potential misperception regarding the company's financial viability.⁵ The rule further provides that if a listed company notifies the Exchange in advance of publication concerning news which might have a substantial market impact, the Exchange should advise an Executive Floor Governor or Floor Governor, or in their absence, a Floor Official, and specifies procedures for Floor Governors to overrule the Exchange's determination that a security should be halted.

⁴ "Floor Official" encompasses Floor Governor, Floor Official, Executive Floor Governor and Senior Floor Governor, as their responsibilities are currently assigned in connection with trading halts. See also Rules 46 - Equities and 46A - Equities defining Floor Governor, Floor Official, and Executive Floor Governor.

⁵ See Rules 46 - Equities and 46A - Equities (defining the terms Floor Official, Senior Floor Official, Executive Floor Official, Floor Governor, and Executive Floor Governor).

Commensurate with the evolution of the equities markets and trading on the Exchange towards more automated processes, the procedures and situations requiring approvals by Floor Officials have also evolved. For example, the Exchange previously eliminated the ability of a Floor broker to seek an exception to Rule 122 - Equities requirements if Floor Official permission is obtained.⁶ In connection with trading halts, the Exchange is responsible for determining whether to halt trading in a security under Section 402 of the Company Guide. Thus, requiring Floor Official approval before a trading halt can be invoked is an unnecessary pro forma step rather than a substantive requirement. Moreover, obtaining Floor Governor approval adds an extra manual step to the process, which could impede the timely dissemination of a trading halt. Finally, given market fragmentation and highly automated equities trading environment, the Exchange does not believe that Floor Governors, who do not have contact with the listed company, should be in a position to override an Exchange determination to halt trading in a security. Consequently, the Exchange proposes to delete Rule 123D(d) - Equities in its entirety as unnecessary and duplicative of existing Exchange obligations specified in the Company Guide.

The Exchange also proposes to make a related change to Section 402 of the Company Guide to delete a reference to Rule 123D - Equities that would be rendered obsolete by the proposed deletion of Rule 123D(d) - Equities. In addition, the Exchange also proposes to make a related change to Section 404 of the Company Guide to delete a reference to a consultation with trading floor officials that would be rendered obsolete by the proposed deletion of Rule 123D(d)

⁶ See also Securities Exchange Act Release No. 67346 (July 3, 2012), 77 FR 40671 (July 10, 2012) (SR-NYSEMKT-2012-15) (notice of filing and immediate effectiveness of proposed rule change amending certain Exchange rules related to floor official duties and responsibilities).

- Equities. In addition, the Exchange proposes to re-letter the remaining subsections of Rule 123D - Equities to account for the deletion of Rule 123D(d) - Equities.

The Exchange proposes to make a related change to eliminate the requirement in Rule 123D(e) - Equities that an “Equipment Changeover” halt in trading requires the approval of a Floor Governor or two Floor Officials as such approval is no longer necessary. An Equipment Changeover halt is a non-regulatory halt condition that only halts trading on the Exchange. The Exchange believes that if circumstances arise warranting an Equipment Changeover halt, obtaining Floor Official approval before halting trading adds an unnecessary step that is no longer needed in today’s automated markets.

Because of the procedural changes associated with the proposed rule changes, the Exchange proposes to announce the eliminations via Trader Update and anticipates implementing the changes in the first quarter of 2017.

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b)⁷ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁸ in particular, in that they are 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 support the objectives of the Act by amending duties and responsibilities once assigned to Floor Officials to better comport with the Exchange’s current regulatory structure and to reflect the changing technology and

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

development of its automated systems. Specifically, eliminating the unnecessary step of obtaining Floor Official approval in connection with trading halts would remove impediments to and perfect a national market system by streamlining and simplifying functionality and complexity in connection with trading halts. The Exchange believes that streamlining the procedures and eliminating unnecessary Floor Official approval requirements would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the removal of unnecessary functionality. The Exchange also believes that eliminating Floor Official approval would benefit investors by adding transparency and clarity to the Exchange's rules.

The Exchange believes that the proposed deletion of the reference to Rule 123D - Equities in Section 402 of the Company Guide is reasonable, equitable and not unfairly discriminatory because the reference is obsolete. The Exchange believes that the proposed deletion of the reference to a consultation with trading floor officials in Section 404 of the Company Guide is reasonable, equitable and not unfairly discriminatory because the reference is obsolete. The proposed changes would result in the removal of obsolete text from the Company Guide and therefore add greater clarity to the Company Guide regarding halts in trading.

The Exchange believes that the proposed re-lettering of the remaining subsections of Rule 123D - Equities is reasonable, equitable and not unfairly discriminatory because the proposed change would add greater clarity to the Exchange's rule book.

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 change is not designed to address any competitive issue but rather would streamline

functionality, eliminate an unnecessary step, and streamline forms, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

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 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)¹¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

Commission shall institute proceedings under Section 19(b)(2)(B)¹³ of the Act 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-2016-118 on the subject line.

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-2016-118. 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

¹³ 15 U.S.C. 78s(b)(2)(B).

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-NYSEMARKT-2016-118 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.¹⁴

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Assistant

Secretary

¹⁴ 17 CFR 200.30-3(a)(12).

