

Institution and settlement of administrative proceedings;  
 Consideration of amicus participation;  
 An adjudicatory matter; and  
 Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551-5400.

Dated: May 22, 2013.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-12629 Filed 5-22-13; 4:15 pm]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69605; File No. SR-NSCC-2013-802]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Extension of Review Period of Advance Notice, as Modified by Amendment No. 1, To Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources To Meet Its Liquidity Needs

May 20, 2013.

On March 21, 2013, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) advance notice SR-NSCC-2013-802 (“Advance Notice”) pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (“Clearing Supervision Act”)<sup>1</sup> and Rule 19b-4(n)(1)(i)<sup>2</sup> thereunder.<sup>3</sup> On April 19, 2013, NSCC filed with the

<sup>1</sup> 12 U.S.C. 5465(e)(1).

<sup>2</sup> 17 CFR 240.19b-4(n)(1)(i).

<sup>3</sup> NSCC also filed the proposal contained in the Advance Notice as a proposed rule change (File No. SR-NSCC-2013-02) under Section 19(b)(1) of the Securities and Exchange Act of 1934 (“Exchange Act”) and Rule 19b-4 thereunder. Release No. 34-69313 (Apr. 4, 2013), 78 FR 21487 (Apr. 10, 2013). Pursuant to Section 19(b)(2) of the Exchange Act, generally, not later than 45 days after the date of publication of the proposed rule change in the **Federal Register** or such longer period up to 90 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination or the self-regulatory organization consents, the Commission will either: (i) by order approve or disapprove the proposed rule change, or (ii) institute proceedings to determine whether the proposed rule change should be disapproved. 17 U.S.C. 78s(b)(2)(A). See Release No. 34-69313 (Apr. 4, 2013), 78 FR 21487 (Apr. 10, 2013). The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

Commission Amendment No. 1 to the Advance Notice.<sup>4</sup> The Advance Notice, as modified by Amendment No. 1, was published for comment in the **Federal Register** on May 1, 2013.<sup>5</sup> As of May 14, 2013, the Commission has received eight comment letters on the proposal contained in the Advance Notice and its related proposed rule change.<sup>6</sup> Additionally, on March 19, 2013, prior to filing the Advance Notice, NSCC received a comment letter on the proposal directly from an NSCC member.<sup>7</sup>

Section 806(e)(1)(G) of the Clearing Supervision Act provides that NSCC may implement the changes if it has not received an objection to the proposed changes within 60 days of the later of (i) the date that the Commission receives the advance notice or (ii) the date that any additional information requested by the Commission is received,<sup>8</sup> unless extended as described below.

Pursuant to Section 806(e)(1)(H) of the Clearing Supervision Act, the Commission may extend the review period of an advance notice for an additional 60 days, if the changes proposed in the advance notice raise novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension.<sup>9</sup>

Here, as the Commission has not requested any additional information, the date that is 60 days after NSCC filed the Advance Notice with the Commission is May 20, 2013. However, the Commission finds it appropriate to extend the review period of the Advance Notice, as modified by Amendment No. 1, for an additional 60 days under Section 806(e)(1)(H) of the Clearing Supervision Act.<sup>10</sup> The Commission finds the Advance Notice, as modified by Amendment No. 1, both novel and complex because it proposes a rule change that is particularly detailed, intricate, multifaceted, and is

<sup>4</sup> See Release No. 34-69451 (Apr. 25, 2013), 78 FR 25496 (May 1, 2013).

<sup>5</sup> *Id.*

<sup>6</sup> See Comments Received on File Nos. SR-NSCC-2013-802 (<http://sec.gov/comments/sr-nsc-2013-802/nsc2013802.shtml>) and SR-NSCC-2013-02 (<http://sec.gov/comments/sr-nsc-2013-02/nsc201302.shtml>). Since the proposal contained in the Advance Notice was also filed as a proposed rule change, see Release No. 34-69313, *supra* note 3, the Commission is considering all public comments received on the proposal regardless of whether the comments are submitted to the Advance Notice or the proposed rule change.

<sup>7</sup> See Exhibit 2 to File No. SR-NSCC-2013-802 (<http://sec.gov/rules/sro/nsc2013/34-69451-ex2.pdf>).

<sup>8</sup> See 12 U.S.C. 5465(e)(1)(G).

<sup>9</sup> See 12 U.S.C. 5465(e)(1)(H).

<sup>10</sup> *Id.*

the first of its kind for a registered clearing agency.

Accordingly, the Commission, pursuant to Section 806(e)(1)(H) of the Clearing Supervision Act,<sup>11</sup> extends the review period for an additional 60 days so that the Commission shall have until July 19, 2013 to issue an objection or non-objection to the Advance Notice, as modified by Amendment No. 1 (File No. SR-NSCC-2013-802).

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-12404 Filed 5-23-13; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69611; File No. SR-NASDAQ-2013-077]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4751(f)(15)

May 20, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 10, 2013, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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

NASDAQ proposes to amend Rule 4751(f)(15). The text of the proposed rule change is below. Proposed deletions are in brackets; new language is italicized.

\* \* \* \* \*

#### 4751. Definitions

The following definitions apply to the Rule 4600 and 4750 Series for the trading of securities listed on Nasdaq or a national securities exchange other than Nasdaq.

(a)–(e) No change.

(f) The term “Order Type” shall mean the unique processing prescribed for

<sup>11</sup> *Id.*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

designated orders that are eligible for entry into the System, and shall include: (1)–(14) No change.

(15) “Market Maker Peg Order” is a limit order that, upon entry, the bid or offer is automatically priced by the System at the Designated Percentage away from the then current National Best Bid and National Best Offer, or if no National Best Bid or National Best Offer, at the Designated Percentage away from the last reported sale from the responsible single plan processor in order to comply with the quotation requirements for Market Makers set forth in Rule 4613(a)(2). Upon reaching the Defined Limit, the price of a Market Maker Peg Order bid or offer will be adjusted by the System to the Designated Percentage away from the then current National Best Bid and National Best Offer, or, if no National Best Bid or National Best Offer, to the Designated Percentage away from the last reported sale from the responsible single plan processor. If a Market Maker Peg Order bid or offer moves away from the Designated Percentage towards the then current National Best Bid or National Best Offer, as appropriate, by [the greater of (a) 4 percentage points], or, (b) one-quarter the applicable percentage necessary to trigger an individual stock trading pause as described in Rule 4120(a)(11), or expands to within that same percentage less 0.5%], the price of such bid or offer will be adjusted to the Designated Percentage away from the then current National Best Bid and National Best Offer, or if no National Best Bid or National Best Offer, to the Designated Percentage away from the last reported sale from the responsible single plan processor. In the absence of a National Best Bid or National Best Offer and if no last reported sale, the order will be cancelled or rejected. If, after entry, the Market Maker Peg Order is priced based on the consolidated last sale and such Market Maker Peg Order is established as the National Best Bid or National Best Offer, the Market Maker Peg Order will not be subsequently adjusted in accordance with this rule until either there is a new consolidated last sale, or a new National Best Bid or new National Best Offer is established by either a national securities exchange or NASDAQ. Market Maker Peg Orders are not eligible for routing pursuant to Rule 4758 and are always displayed on NASDAQ. Notwithstanding the availability of Market Maker Peg Order functionality, a Market Maker remains responsible for entering, monitoring, and resubmitting, as applicable, quotations that meet the requirements of Rule 4613. A new timestamp is created

for the order each time that it is automatically adjusted. For purposes of this paragraph, NASDAQ will apply the Designated Percentage and Defined Limit as set forth in Rule 4613, subject to the following exception. Nothing in this rule shall preclude a Market Maker from designating a more aggressive offset from the National Best Bid or National Best Offer than the given Designated Percentage for any individual Market Maker Peg Order. If a Market Maker designates a more aggressive offset from the National Best Bid or National Best Offer, the price of a Market Maker Peg Order bid or offer will be adjusted by the System to maintain the Market Maker-designated offset from the National Best Bid or National Best Offer, or if no National Best Bid or National Best Offer, the order will be cancelled or rejected.

(g)–(i) No change.

\* \* \* \* \*

## II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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

NASDAQ is proposing to simplify the calculation of the price adjustment trigger of the Market Maker Peg Order (“MMPO”) under Rule 4751(f)(15). The MMPO is an order type available only to Exchange market makers that provides a means by which a market maker may comply with its market making obligations under Rule 4613(a), but also maintain an order price a certain percentage from the National Best Bid or National Best Offer. The MMPO was adopted as a replacement to the Exchange’s automated quotation functionality, which was retired in February 2013.<sup>3</sup> When NASDAQ

<sup>3</sup> The automated quotation functionality was previously under Rules 4613(a)(2)(F) and (G). See Securities Exchange Act Release No. 68528 (December 21, 2012), 77 FR 77165 (December 31, 2012) (SR–NASDAQ–2012–140).

adopted the MMPO, it applied the same triggering percentages used by AQR to initiate a repricing of the market maker’s quote. Specifically, MMPO price adjustment occurs if upon entry and at any time the order exceeds either the Defined Limit<sup>4</sup>, as described in Rule 4613(a)(2)(E), or moves away from the Designated Percentage<sup>5</sup> towards the then current National Best Bid or National Best Offer, as appropriate, by the greater of (a) 4 percentage points, or, (b) one-quarter the applicable percentage necessary to trigger an individual stock trading pause as described in Rule 4120(a)(11), or expands to within that same percentage less 0.5 percent. Once price adjustment is triggered, the MMPO is priced by the Exchange at the Designated Percentage away from the then current National Best Bid and National Best Offer, or, if no National Best Bid or National Best Offer, to the Designated Percentage away from the last reported sale from the responsible single plan processor. In the absence of a National Best Bid or National Best Offer and last reported sale, the order will be cancelled or rejected. Adjustment to the Designated Percentage is designed to avoid an execution against a MMPO that would initiate a single stock circuit breaker.

In an effort to simplify the calculation of the price adjustment trigger of the MMPO when it moves toward the National Best Bid or National Best Offer, NASDAQ is proposing to eliminate the trigger based on a one quarter of the applicable percentage necessary to trigger an individual stock trading pause. As currently written, once a market maker enters a MMPO Rule 4751(f)(15) requires NASDAQ to constantly compare the 4 percent threshold to ¼ of the applicable Rule 4120(a)(11) percentage in order to

<sup>4</sup> The term Defined Limit is defined by Rule 4613(a)(2)(E) as 9.5% for securities subject to Rule 4120(a)(11)(A), 29.5% for securities subject to Rule 4120(a)(11)(B), and 31.5% for securities subject to Rule 4120(a)(11)(C), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 4120(a)(11) is not in effect, the Defined Limit shall be 21.5% for securities subject to Rule 4120(a)(11)(A), 29.5% for securities subject to Rule 4120(a)(11)(B), and 31.5% for securities subject to Rule 4120(a)(11)(C).

<sup>5</sup> The Designated Percentage is the individual stock pause trigger percentage under Rule 4120(a)(11) less two (2) percentage points and is defined by Rule 4613(a)(2)(D) as 8% for securities subject to Rule 4120(a)(11)(A), 28% for securities subject to Rule 4120(a)(11)(B), and 30% for securities subject to Rule 4120(a)(11)(C), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 4120(a)(11) is not in effect, the Designated Percentage shall be 20% for securities subject to Rule 4120(a)(11)(A), 28% for securities subject to Rule 4120(a)(11)(B), and 30% for securities subject to Rule 4120(a)(11)(C). The Designated Percentage for rights and warrants shall be 30%.

determine whether repricing to the Designated Percentage must occur. For example, if a market maker enters a bid MMPO at 11am in a security subject to Rule 4120(a)(11)(A) when the market is \$10 x \$10.01, it would initially be priced at \$9.20 (the Designated Percentage for such securities is 8%). If the NBB moves within 4% of the MMPO to \$9.57 (4% is greater than ¼ of the 10% Rule 4120(a)(11)(A) trigger, which is 2.5%) the MMPO should reprice to the Designated Percentage away from the then current NBB, which in this case would result in the MMPO repricing to \$8.80 ( $\$9.57 \times 92\%$ ). If, instead, the security was subject to Rule 4120(a)(11)(B), it would be initially priced at \$7.20 (the Designated Percentage for such securities is 28%). If the NBB moves within 7.5% of the MMPO to \$7.74 (¼ of the 30% Rule 4120(a)(11)(B) trigger is 7.5%, which is greater than 4%) the MMPO should reprice to the Designated Percentage away from the then current NBB, which in this case would result in the MMPO repricing to \$5.57 ( $\$7.74 \times 72\%$ ). Under the proposed language, the MMPO in this last example would not reprice when the NBB reaches \$7.74, but rather reprice when the NBB reached \$7.49, which is within 4% of the MMPO. In this example, the MMPO would then reprice to \$5.39, which is the Designated Percentage from the NBB of \$7.49.

NASDAQ believes that applying a 4 percent threshold to all securities is a better method because it reduces complexity in calculating the repricing trigger price by repricing only when the NBB or NBO moves to within 4% of the MMPO price.<sup>6</sup> NASDAQ notes that the MMPO will operate unchanged for the larger, more liquid securities covered by Rule 4120(a)(11)(A). Securities subject to Rule 4120(a)(11)(A) are always subject to the 4 percent threshold, since ¼ of the Rule 4120(a)(11)(A) threshold of 10 percent equals 2.5 percent. Securities covered by Rules 4120(a)(11)(B) and (C) are less liquid and, in the case of securities covered by subparagraph (C), are below a dollar. Rules 4120(a)(11)(B) and (C) apply 30 and 50 percent thresholds, respectively, in triggering a single stock circuit breaker. Therefore, the MMPO threshold for such securities, is ¼ of 30 and 50 percent, or 7.5 and 12.5 percent, respectively. As a consequence, under the proposed change, the MMPO will not reprice to the Designated Percentage

until the price move percentage is closer to the National Best Bid or National Best Offer than is currently the case (*i.e.*, 4 percent as compared to 7.5 or 12.5 percent). NASDAQ does not believe that this will in any way negatively affect trading in these securities. A MMPO is not typically executed against and NASDAQ does not believe that applying a 4 percent threshold to all securities will materially increase the likelihood of an MMPO being executed. NASDAQ will continue to adjust the price of a MMPO that reaches the Defined Limit.

NASDAQ is also proposing to eliminate language from the rule text that is duplicative of other descriptive language. Specifically, NASDAQ is deleting the language that follows subparagraph (b) of the rule, which states “or expands to within that same percentage less 0.5%.” This language summarizes the repricing of the MMPO upon reaching the Defined Limit, which is described in the preceding sentence. Accordingly, the proposed deletion does not change how the MMPO operates, but rather deletes text that is redundant and could be confusing.

## 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,<sup>7</sup> which requires the rules of an exchange to promote just and equitable principles of trade, to 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 proposed rule meets these requirements in that it reduces complexity in making the determination to adjust the price of a MMPO. The Exchange notes that the calculation that it is proposing will have no effect on securities subject to Rule 4120(a)(11)(A), but will result in securities covered by Rules 4120(a)(11)(B) and (C) to reprice to the Designated Percentage at a point closer to the National Best Bid or National Best Offer. NASDAQ does not believe that repricing at 4 percent for all securities will result in a material increase in executions of MMPOs. Accordingly, removing the price adjustment threshold based on a calculation of ¼ of the percentages under Rules 4120(a)(11)(B) and (C) will reduce the complexity of calculations under the rule without reducing the effectiveness of the order. Last, NASDAQ believes that removing duplicative, and possibly confusing, language from the rule will promote the

public interest by clarifying the operation of the MMPO.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to reduce the complexity of the price adjustment triggers under the rule while continuing to maintain a market maker's quote so that it meets its market making obligations. Moreover, the proposed change will align the rule text with the current operation of the order type. As such, the Exchange does not believe that the rule will impact competition in any way.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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

Because the foregoing 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, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>9</sup>

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 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 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:

<sup>6</sup>NASDAQ notes that the MMPO currently operates in the manner proposed by this rule change. As such, the proposed change will align the rule text with the current operation of the MMPO.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

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

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2013-077 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-NASDAQ-2013-077. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 offices 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-NASDAQ-2013-077, and should be submitted on or before June 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-12407 Filed 5-23-13; 8:45 am]

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<sup>10</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69608; File No. SR-NYSEMKT-2013-12]

**Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Amending Rule 975NY In Part and Adding a New Section To Address Errors That Involve Complex Orders**

May 20, 2013.

**I. Introduction**

On February 1, 2013, NYSE MKT LLC ("NYSE MKT" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the Exchange's Obvious Error Rule in part and add a new section to address errors that involve Complex Orders. The proposed rule change was published for comment in the **Federal Register** on February 21, 2013.<sup>3</sup> The Commission received no comment letters on the proposal. On April 23, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup>

The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

**II. Description of Proposal**

The Exchange proposes several changes to its Obvious Error Rule, Rule 975NY. First, the Exchange is proposing to change the portion of the rule that addresses errors in series with zero or no bid. Specifically, the Exchange proposes replacing reference to "series quoted no bid on the Exchange" with "series where the NBBO bid is zero."

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 68926 (February 14, 2013), 78 FR 12123 ("Notice").

<sup>4</sup> In Amendment No. 1, the Exchange proposed to modify Rule 975NY to provide that the proposed changes to Rule 975NY(b)(1) extending to thirty minutes the time for which a Customer must notify the Exchange that it participated in a transaction that may be subject to adjustment or nullification pursuant to provisions of the Obvious Error Rule shall not apply to Professional Customers, as defined by Rule 900.2NY(18A), and to add a corresponding internal reference to Rule 900.2NY(18A) that specifies that Professional Customers will be treated in the same manner as a Broker/Dealer (or non-Customer) for purposes of the Obvious Error Rule.

The Exchange believes that this change ensures consistency with other relevant parts of the rule.

Second, the Exchange proposes to increase the amount of time in which Market Makers are required to notify the Exchange in order to have transactions reviewed under Rule 975NY. Under the proposal, the time would increase from five minutes to ten minutes. The Exchange represents that this additional time accommodates the potential need for Market Makers to potentially call multiple exchanges to have transactions reviewed.

Third, the Exchange proposes to extend the time ATP Holders acting as agent for a Customer<sup>5</sup> have to notify the Exchange of a potential error from twenty minutes to thirty minutes. Under the proposed rule, however, the time extension would not apply to ATP Holders acting as agent for Professional Customers.<sup>6</sup> The Exchange states that because Customers are far removed from the execution of the trade, it believes that it is appropriate to give Customers more time for their requests for review to pass from their broker-dealer to the Exchange. In contrast, the Exchange notes that other market participants, such as firms, non-member Market Makers, and Professional Customers, tend to route their own order flow directly to the Exchange and are not as far removed from the actual execution. The Exchange further explains that it is fairly common for broker-dealers that receive a Customer order to route that order to another broker-dealer that uses a router that evaluates best execution factors to determine where to ultimately route the order. In these situations, if a Customer chooses to request an Obvious Error review, Customers may need more than 20 minutes for their requests for review to reach the Exchange. The Exchange acknowledges that extending the notification period can increase the uncertainty of the standing of the trade, however, it believes that such uncertainty will be limited to trades that are so outside the bounds of normal trading that they might qualify for Obvious Error treatment.

Finally, the Exchange is proposing to add a new section to Rule 975NY to

<sup>5</sup> Under NYSEMKT Rule 900.2NY(18) "Customer" means an individual or organization that is not a Broker/Dealer; when not capitalized, "customer" refers to any individual or organization whose order is being represented, including a Broker/Dealer.

<sup>6</sup> See Amendment No. 1, *supra* note 4. Under NYSEMKT Rule 900.2NY(18A) "Professional Customer" means individual or organization that (i) is not a Broker/Dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).