

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69673; File No. SR-NYSEMKT-2013-42]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE MKT Rule 980NY, To Remove Provisions Governing How the Complex Matching Engine Handles Electronic Complex Orders That Contain a Stock Leg

May 30, 2013.

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 May 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE MKT Rule 980NY, to remove provisions governing how the Complex Matching Engine (“CME”) handles Electronic Complex Orders that contain a stock leg. The text of the proposed rule change is available on the Exchange’s Web site 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 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 NYSE MKT Rule 980NY to delete provisions governing CME functionality for Electronic Complex Orders⁴ containing a stock leg submitted to the Exchange by ATP Holders. Exchange Rule 980NY provides that Electronic Complex Orders that are entered into the NYSE MKT system are routed to the CME for possible execution. Provisions governing the functioning of the CME were originally incorporated in Rule 980NY in 2009.⁵ The Rule, amended in 2010,⁶ states that the execution of the stock component of a Complex Order must be executed consistent with the rules of the stock execution venue, and sets out the priority ranking used by Exchange systems to execute Stock/Option Orders,⁷ Stock/Complex Orders,⁸ and the option components of such orders.

⁴ An “Electronic Complex Order” is any Complex Order, as defined in Exchange Rule 900.3NY(e), or Stock/Option Order or Stock/Complex Order, as defined in Rule 900.3NY(h) (*see, infra*, footnotes 6 and 7). Rule 900.3NY(e) defines a Complex Order as any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. Exchange Rule 900.3NY governs Complex Orders, Stock/Option Orders and Stock/Complex Orders on the Exchange and Rule 990NY lists definitions applicable to intermarket linkage.

⁵ See Securities Exchange Act Release No. 60554 (Aug. 21, 2009), 74 FR 43737 (Aug. 27, 2009) (SR-NYSEAmex-2009-42) (order granting approval).

⁶ See Securities Exchange Act Release No. 63558 (Dec. 16, 2010), 75 FR 80553 (Dec. 22, 2010) (SR-NYSEAmex-2010-100) (order granting approval).

⁷ A Stock/Option Order is defined in Rule 900.3NY(h)(1) as an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight options contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation.

⁸ A Stock/Complex Order is defined in Rule 900.3NY(h)(2) as the purchase or sale of a Complex Order coupled with an order to buy or sell a stated number of units of an underlying stock or a security

The Exchange is proposing to amend Rule 980NY to delete provisions governing how the CME processes Electronic Complex Orders that contain a stock leg. Two types of Electronic Complex Orders, Stock/Option Orders and Stock/Complex Orders, contain a stock leg. Rule 980NY(c)(i) provides that “the CME will accept an incoming Electronic Complex Order and will automatically execute it against Electronic Complex Orders in the Consolidated Book, or, if not marketable against another Electronic Complex Order, against individual quotes or orders residing in the Consolidated Book,” subject to specified conditions. The CME, however, rejects Electronic Complex Orders that contain a stock leg. The development and implementation of the technology supporting the CME’s capability to accept Electronic Complex Orders that contain a stock leg has taken longer than anticipated to complete and is not yet available. The Exchange is therefore proposing to delete from the Rule those provisions that permit the CME to accept Electronic Complex Orders that contain a stock leg.

The Exchange expects that this CME functionality will not be ready until the Fall of 2013. The Exchange therefore believes it is appropriate to delete from Rule 980NY provisions governing the described functionality until such time as it is ready to be implemented. In addition, the Exchange is proposing the deletion of Commentary .03 to Rule 980NY to conform the Rule’s Commentary to the proposed amendments to the Rule. When the CME functionality to support the acceptance of a Stock/Option Order or Stock/Complex Order is ready to be implemented, the Exchange will file a rule proposal to add back the provisions relating to the functionality, amended as necessary to reflect how such functionality would operate.

The use of Stock/Option and Stock/Complex Orders in open outcry trading on the Exchange Floor remains available to ATP Holders and is not impacted by the proposed amendment to Rule 980NY, which only relates to CME’s current inability to accept Electronic Complex Orders that contain a stock leg.

convertible into the underlying stock (“convertible security”) representing either (A) the same number of units of the underlying stock or convertible security as are represented by the options leg of the Complex Order with the least number of options contracts, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg to the total number of units of the underlying stock or convertible security in the stock leg.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)⁹ of the Act, in general, and furthers the objectives of Section 6(b)(5),¹⁰ 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 a national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the removal of unavailable functionality will add transparency and clarity to the Exchange's rules. Additionally, the removal would reduce potential confusion that may result from the Exchange's rulebook referring to order execution functionality that is unavailable. Finally, the proposed amendment would not otherwise affect the operation of any other provision of the Rule on Exchange systems, including the availability of Stock/Option and Stock/Complex Orders in open outcry trading referenced above.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition. The proposed change is not designed to address any competitive issue but rather would delete unavailable functionality in the Exchange's rulebook, 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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ 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 believes that the waiver of the operative delay is consistent with the protection of investors and the public interest because the change will provide clarity as to what functionality is offered by the Exchange, and because the CME functionality proposed to be removed from the rule set is not actually available, its removal will not have a negative effect on investors. Furthermore, the Exchange notes that the waiver of the 30-day operative period will enable the Exchange's rules to immediately reflect the functionality available on the Exchange. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission waives the operative delay and designates the proposal operative upon filing.¹⁵

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 email to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2013-42 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-2013-42. 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 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 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-NYSEMKT-2013-42, and should be submitted on or before June 26, 2013.

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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¹³ *Id.*

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 17 CFR 200.30-3(a)(12).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).