

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72916; File No. SR-NYSE-2014-44]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To (i) Delete Obsolete Rules Relating to Exchange-Listed Options Trading and Related References (NYSE Rules 700-794); (ii) Delete Obsolete Rules Related to the Defunct Exchange Stock Portfolio Service and Related References (NYSE Rules 800-817); and (iii) Amend NYSE Rules 15A and 123D To Remove Outdated References to the Terminated Intermarket Trading System Plan

August 26, 2014.

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 August 15, 2014, New York Stock Exchange LLC ("NYSE" or "Exchange") 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 (i) delete obsolete rules relating to Exchange-listed options trading (Rules 700-794) and related references; (ii) delete obsolete rules related to the defunct Exchange Stock Portfolio Service (Rules 800-817) and related references; and (iii) amend Rules 15A and 123D to remove outdated references to the terminated Intermarket Trading System ("ITS") Plan. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

#### 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to (i) delete obsolete rules governing Exchange-listed options trading (Rules 700-794) and related references; (ii) delete obsolete rules governing the defunct Exchange Stock Portfolio Service (Rules 800-817) and related references; and (iii) amend Rules 15A and 123D to remove references to the terminated ITS Plan.

First, the Exchange proposes to delete the 700 rule series (Rules 700-794), which apply to the trading of option contracts issued by The Options Clearing Corporation on the Exchange. The NYSE sold its listed options business in 1997 and does not currently trade Exchange-listed options.<sup>3</sup> It is no longer necessary to maintain options trading rules for a business the Exchange no longer conducts. The Exchange also proposes to amend Rule 345, relating to registration of employees, to remove references to Rule 700(b)(4). Similarly, the Exchange proposes to remove 700 series rules from the minor rule violation plan and amend Rules 9217 and 476A accordingly.<sup>4</sup>

<sup>3</sup> The business was sold to the Chicago Board Options Exchange, Inc. See Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

<sup>4</sup> In 2013, the NYSE adopted a new set of procedural rules modeled on the rules of the Financial Industry Regulatory Authority ("FINRA") that included aspects of FINRA's process and fine levels for minor rule violations. The Exchange maintained the specific list of rules set forth in NYSE Rule 476A, which were moved to new Rule 9217. See Securities Exchange Act Release Nos. 68678 (Jan. 16, 2013), 78 FR 5213 (Jan. 24, 2013), and 69045 (Mar. 5, 2013), 78 FR 15394 (Mar. 11, 2013) (SR-NYSE-2013-02). Rule 476A continues to apply to disciplinary proceedings filed prior to July 1, 2013. The Exchange also proposes to remove references to the terminated ITS Plan in Rule 476A. See note 12, *infra*.

Second, the Exchange proposes to delete the 800 rule series (Rules 800-817), which governs the NYSE's Exchange Stock Portfolio Service ("ESP Service"). The ESP Service was initiated in 1989 to enable the trading of standardized baskets of stocks at an aggregate price in a single execution on the Exchange's trading Floor.<sup>5</sup> The ESP Service allowed trades in the component stocks of an index basket to be effected in a single execution, as opposed to separate executions for each of the component stocks. The program was suspended in 1991.<sup>6</sup> Because the Exchange no longer conducts the ESP Service, the rules associated with it are also obsolete.

The Exchange also proposes to amend the following rules to remove references to rules in the 800 series:

- Rule 111, governing reports of executions;
- Rule 96, governing limitations on members' trading based on existing options positions;
- Rule 104T, governing dealings by Exchange Designated Market Makers; and,
- Rule 36, governing communications between Exchange and Members' Offices.

Finally, the Exchange proposes to amend Rule 15A, the order protection rule, and Rule 123D, which governs openings and halts in trading, to remove references to the ITS Plan.<sup>7</sup>

Rule 15A was amended in 2007 to describe how the Exchange would automatically route orders to other market centers to prevent trade-throughs on the Exchange in conformance with SEC Rule 611 (the "Order Protection Rule") of Regulation National Market System ("Reg. NMS") beginning on March 5, 2007.<sup>8</sup> However, since the ITS Plan was still in effect, the Exchange retained those portions of Rule 15A describing the circumstances under which the Exchange routed orders to

<sup>5</sup> See SEC No-Action Letter, 1989 WL 246468 (Oct. 26, 1989).

<sup>6</sup> See, e.g., SEC No-Action Letter, 2009 WL 1758909 (June 11, 2009).

<sup>7</sup> Between 1978 and 2007, ITS was the principal means of electronically transmitting orders between market centers to avoid trading through superior quotes in those markets. When the Commission adopted Reg. NMS, the ITS Plan participants terminated the governing agreement, the ITS Plan, and replaced it with the NMS Linkage Plan. See Securities Exchange Act Release No. 34-54551 (September 29, 2006), 71 FR 194 (October 6, 2006). The purpose of the NMS Linkage Plan was to enable the plan participants to act jointly in planning, developing, operating and regulating the NMS Linkage System that would electronically link the participant markets to one another.

<sup>8</sup> See Securities Exchange Act Release No. 34-55387 (March 2, 2007), 72 FR 10808 (March 9, 2007) (SR-NYSE-2007-2[sic]).

other market centers to avoid trade throughs according to parameters established by the ITS Plan. ITS was eliminated on June 30, 2007.<sup>9</sup> The Exchange proposes to retain that portion of Rule 15A added in 2007 that describes compliance with the order protection rule of Reg. NMS and delete the remainder of the obsolete rule text relating to the ITS Plan.

Similarly, Rule 123D contains the obsolete requirement that the relevant "ITS Pre-Opening Applications" must be followed when necessary based upon the anticipated opening price. This language refers to the ITS Plan requirement, codified in an earlier version of Rule 15, that each market center have procedures governing the dissemination of pre-opening price information.<sup>10</sup> Rule 15 was amended in 2007 following the termination of the ITS Plan to, among other things, remove the requirement to disseminate ITS pre-opening indications, which the Commission acknowledged were no longer required following the elimination of the ITS Plan and the NMS Linkage Plan.<sup>11</sup> It bears noting that deletion of this rule text in Rule 123D in no way diminishes the obligation of DMs to issue pre-opening indications under appropriate circumstances as set forth in the current version of Rule 15.<sup>12</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>14</sup> in particular, in that it in that it [sic] is 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 and, in general, help to protect investors and the public interest. Specifically, the Exchange believes that deleting rule text relating to businesses the NYSE no longer engages in and routing arrangements that have been superseded by Reg. NMS removes impediments to and perfects the mechanism of a free and open market by simplifying its rulebook and removing confusion that may result from having obsolete rules in the Exchange's rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rulebook. The Exchange also believes that eliminating obsolete rules would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency as to which rules are operable, thereby reducing potential confusion. Similarly, the Exchange believes that removing cross-references to obsolete rules would remove impediments to and perfect the mechanism of a free and open market because it would reduce potential confusion that may result from having such cross references in the Exchange's rulebook. Removing such obsolete cross references will also further the goal of transparency and add clarity to the Exchange's rules.

### 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 to delete obsolete rules and cross-references to obsolete rules, thereby increasing transparency, 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 Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> 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)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> 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.

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)<sup>19</sup> 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

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>9</sup> The NMS Linkage Plan ran concurrently with the ITS Plan until March 5, 2007, at which time the ITS Plan terminated and the Order Protection Rule became operative. The NMS Linkage Plan terminated on June 30, 2007.

<sup>10</sup> See Securities Exchange Act Release No. 34-57003 (December 20, 2007), 72 FR 73949 (December 28, 2007) (SR-NYSE-2007-112). Prior to its amendment in 2007, Rule 15 defined an "Pre-Opening Application" as "the application of the System that permits a market-maker in one Participant market who wishes to open his market in an Eligible Listed Security to obtain from other market-makers registered in that security in other Participant markets any pre-opening interests such other market-makers might decide to disclose as set forth in the ITS Plan."

<sup>11</sup> See Securities Exchange Act Release No. 34-57003 (December 20, 2007), 72 FR 73949 (December 28, 2007) (SR-NYSE-2007-112).

<sup>12</sup> The Exchange also proposes to remove outdated references to ITS in Rule 476A.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

• Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2014-44 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-NYSE-2014-44. 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 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-NYSE-2014-44 and should be submitted on or before September 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Kevin M. O'Neill,**

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72919; File No. SR-ISE Gemini-2014-22]

### Self-Regulatory Organizations; ISE Gemini Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change on Sweep Orders

August 26, 2014.

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 August 19, 2014, ISE Gemini, LLC (the "Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission ("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

ISE Gemini proposes to amend its rules to adopt a definition of "Sweep Order," an order type that will be introduced in rules incorporated by reference to rules of the Exchange's affiliate, International Securities Exchange, LLC ("ISE"), and to allow market makers to enter Sweep Orders in their appointed options classes. The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.ise.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 Exchange 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

On July 31, 2014, the ISE filed a proposed rule change that introduced a new order type: The "Sweep Order."<sup>3</sup> Pursuant to the rules adopted in the ISE filing, which will become effective on September 1, 2014, a "Sweep Order" is a limit order that is executed against any available interest in the order book at the NBBO or better and immediately sent to the Linkage Handler for away market routing, without being exposed to members first under Supplementary Material .02 to ISE Rule 1901. Furthermore, a Sweep Order that is not marketable when it is submitted is cancelled, as is any portion of a marketable Sweep Order that is not immediately executed by an eligible exchange. New Supplementary Material .05 to ISE Rule 1901, which describes order handling for Sweep Orders, is incorporated by reference into Chapter 19 of ISE Gemini rules. The purpose of this proposed rule change is to amend ISE Gemini Rule 715 to include a definition of "Sweep Order," as described above. In conjunction with this change, the Exchange also proposes to amend ISE Gemini Rule 805(a) to allow market makers to submit Sweep Orders in their appointed options classes,<sup>4</sup> consistent with treatment on the ISE.

##### 2. Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act,<sup>5</sup> and the rules and regulations thereunder that are applicable to a national securities exchange, including the requirements of Section 6(b) of the Act.<sup>6</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act,<sup>7</sup> because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

<sup>3</sup> See Securities Exchange Act Release No. 72816 (August 12, 2014), 79 FR 48811 (August 18, 2014) (SR-ISE-2014-37).

<sup>4</sup> Market makers are currently permitted to submit the following order types in their appointed options classes: Opening only orders, immediate-or-cancel ("IOC") orders, market orders, fill-or-kill orders, and certain block orders and non-displayed penny orders. See ISE Gemini Rule 805(a).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b).

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

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

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

<sup>20</sup> 17 CFR 200.30-3(a)(12).