

these functions as part of creating its proprietary market data products and is able to allocate these costs over numerous products and customer relationships. For these reasons, the Exchange believes that vendors could readily offer a product similar to the BATS One Feed on a competitive basis at a similar cost.

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

A similar proposed rule change was initially filed with the Commission on July 14, 2014 and published for comment in the **Federal Register** on August 1, 2014.<sup>33</sup> The Commission received one comment letter in response to that proposed rule change.<sup>34</sup> In addition, two letters were submitted to the Commission commenting on a companion BZX filing that proposed to offer the same feed.<sup>35</sup> On September 15, 2014, the Commission extended its review period until October 30, 2014.<sup>36</sup> On October 29, 2014, the Exchange withdrew the initial proposed rule change. The points raised by the Themis Letter and Shatto Letter are either not responsive to the issues raised in the proposal or aimed at existing elements of U.S. market structure that have been previously approved by the Commission.

The thrust of the SIFMA Letter is aimed at the proposed fees which are being removed from this proposed rule change and are to be filed with the Commission via a separate rule filing. While the SIFMA Letter correctly states that the Exchange has marketed the BATS One Feed since August 1, 2014, the SIFMA Letter incorrectly asserts that the Exchange has offered the BATS One Feed since that same date. All of the Exchange's marketing materials have included statements that the BATS One Feed's implementation was pending to SEC approval, and at no point has the

Exchange offered the BATS One product for any use other than for testing and certification.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days of such date (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EDGA-2014-25 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-EDGA-2014-25. 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 the filing also will be available for inspection and copying at the principal office of EDGA. 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-EDGA-2014-25 and should be submitted on or before December 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2014-27445 Filed 11-19-14; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-73593; File No. SR-NYSEMKT-2014-95]

**Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Rule 13—Equities and Related Rules Governing Order Types and Modifiers To Clarify the Nature of Order Types**

November 14, 2014.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on October 31, 2014, NYSE MKT LLC ("Exchange" or "NYSE MKT") 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**

The Exchange proposes to amend Rule 13—Equities and related rules governing order types and modifiers. 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>37</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>33</sup> See Securities Exchange Act Release No. 72689 (July 28, 2014), 79 FR 44917 (August 1, 2014) (SR-EDGA-2014-16).

<sup>34</sup> See Letter from Suzanne Hamlet Shatto to the Commission, dated August 19, 2014 (SR-EDGA-2014-16) ("Shatto Letter") (letter commenting on companion EDGA filing that proposes to offer the same feed).

<sup>35</sup> But see Letter from Sal Arnuk and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014 (SR-BATS-2014-028) ("Themis Letter"); Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin O'Neill, Deputy Secretary, Commission, dated August 22, 2014 (SR-BATS-2014-028) ("SIFMA Letter") (letters commenting on companion BATS filing that proposes to offer the same feed).

<sup>36</sup> See Securities Exchange Act Release No. 73098 (September 15, 2014), 79 FR 56415 (September 19, 2014).

## 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

On June 5, 2014, in a speech entitled "Enhancing Our Market Equity Structure," Mary Jo White, Chair of the Securities and Exchange Commission ("SEC" or the "Commission") requested the equity exchanges to conduct a comprehensive review of their order types and how they operate in practice, and as part of this review, consider appropriate rule changes to help clarify the nature of their order types.<sup>4</sup> Subsequent to the Chair's speech, the SEC's Division of Trading and Markets requested that the equity exchanges complete their reviews and submit any proposed rule changes by November 1, 2014.<sup>5</sup>

The Exchange notes that it continually assesses its rules governing order types and undertook on its own initiative a review of its rules related to order functionality to assure that its various order types, which have been adopted and amended over the years, accurately describe the functionality associated with those order types, and more specifically, how different order types may interact. As a result of that review, the Exchange submitted a proposed rule change to delete rules relating to functionality that was not available.<sup>6</sup> In addition, over the years,

when filing rule changes to adopt new functionality, the Exchange has used those filings as an opportunity to streamline related existing rule text for which functionality has not changed.<sup>7</sup>

The Exchange is filing this proposed rule change to continue with its efforts to review and clarify its rules governing order types, as appropriate. Specifically, the Exchange notes that Rule 13—Equities ("Rule 13") is currently structured alphabetically, and does not include subsection numbering. The Exchange proposes to provide additional clarity to Rule 13 by re-grouping and re-numbering current rule text and making other non-substantive, clarifying changes. The proposed rule changes are not intended to reflect changes to functionality but rather to clarify Rule 13 to make it easier to navigate.<sup>8</sup> In addition, the Exchange proposes to amend certain rules to remove references to functionality that is no longer operative.

#### Proposed Rule 13 Restructure

The Exchange proposes to re-structure Rule 13 to re-group existing order types and modifiers together along functional lines.

Proposed new subsection (a) of Rule 13 would set forth the Exchange's order types that are the foundation for all other order type instructions, i.e., the primary order types. The proposed primary order types would be:

- **Market Orders.** Rule text governing Market Orders would be moved to new Rule 13(a)(1). The Exchange proposes a non-substantive change to replace the reference to "Display Book" with a reference to "Exchange systems." The Exchange notes that it proposes to capitalize the term "Market Order" throughout new Rule 13.

- **Limit Orders.** Rule text governing Limit Orders would be moved to new Rule 13(a)(2). The Exchange proposes a non-substantive change to capitalize the term "Limit Order," and to shorten the definition in a manner that streamlines

the rule text without changing the meaning of the rule. The Exchange notes that it proposes to capitalize the term "Limit Order" throughout new Rule 13.

The Exchange notes that it proposes to delete the definition of "Auto Ex Order" because all orders entered electronically at the Exchange are eligible for automatic execution in accordance with Rules 1000–1004—Equities and therefore the Exchange does not believe that it needs to separately define an Auto Ex Order. Rather than maintain a separate definition, the Exchange proposes to specify in proposed Rule 13(a) that all orders entered electronically at the Exchange are eligible for automatic execution consistent with the terms of the order and Rules 1000–1004—Equities. The Exchange notes that Rule 13 currently provides for specified instructions for orders that may not execute on arrival, even if marketable, e.g., a Limit Order designated ALO, or may only be eligible to participate in an auction, accordingly, the terms of the order also control whether a marketable order would automatically execute upon arrival. The Exchange further proposes to specify that interest represented manually by Floor brokers, i.e., orally bid or offered at the point of sale on the Trading Floor, is not eligible for automatic execution. The Exchange notes that the order types currently specified in the definition for auto ex order are already separately defined in Rule 13 or Rule 70(a)(ii)—Equities (definition of G order).

Proposed new subsection (b) of Rule 13 would set forth the existing Time in Force Modifiers that the Exchange makes available for orders entered at the Exchange. The Exchange proposes to: (i) Move rule text governing Day Orders to new Rule 13(b)(1), without any substantive changes to the rule text; (ii) move rule text governing Good til Cancelled Orders to new Rule 13(b)(2), without any substantive changes to the rule text; and (iii) move rule text governing Immediate or Cancel Orders to new Rule 13(b)(3) without any changes to rule text. The Exchange notes that these time-in-force conditions are not separate order types, but rather are modifiers to orders. Accordingly, the Exchange proposes to re-classify them as modifiers and remove the references to the term "Order." In addition, as noted above, the Exchange proposes to capitalize the term "Limit Order" in Rule 13(b).

Proposed new subsection (c) of Rule 13 would specify the Exchange's existing Auction-Only Orders. In moving the rule text, the Exchange proposes the following non-substantive

<sup>4</sup> See Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler, O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at [www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HL-fmw/jiw](http://www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HL-fmw/jiw)).

<sup>5</sup> See Letter from James Burns, Deputy Director, Division of Trading and Markets, Securities and Exchange Commission, to Jeffrey C. Sprecher, Chief Executive Officer, Intercontinental Exchange, Inc., dated June 20, 2014.

<sup>6</sup> See Securities Exchange Act Release No. 71898 (April 8, 2014), 79 FR 20957 (April 14, 2014) (SR-NYSEMKT-2014-27) (amending rules governing pegging interest to conform to functionality that is available at the Exchange).

<sup>7</sup> See, e.g., Securities Exchange Act Release Nos. 68305 (Nov. 28, 2012), 77 FR 71853 (Dec. 4, 2012) (SR-NYSEMKT-2012-67) (amending rules governing pegging interest to, among other things, make non-substantive changes, including moving the rule text from Rule 70.26—Equities to Rule 13, to make the rule text more focused and streamlined) ("2012 Pegging Filing"), and 71175 (Dec. 23, 2013), 78 FR 79534 (Dec. 30, 2013) (SR-NYSEMKT-2013-25) (approval order for rule proposal that, among other things, amended Rule 70 governing Floor broker reserve e-quotes that streamlined the rule text without making substantive changes) ("2013 Reserve e-Quote Filing").

<sup>8</sup> The Exchange notes that its affiliated exchanges, New York Stock Exchange LLC ("NYSE") and NYSE Arca, Inc. are proposing similar restructuring of their respective order type rules to group order types and modifiers. See SR-NYSE-2014-59 and SR-NYSEArca-2014-130.

changes: (i) Capitalize the terms “Limit Order,” “CO Order,” and “Market Order”; (ii) move the rule text for CO Orders to new Rule 13(c)(1); (iii) rename a “Limit ‘At the Close’ Order” as a “Limit-on-Close (LOC) Order” and move the rule text to new Rule 13(c)(2); (iv) rename a “Limit ‘On-the-Open’ Order” as a “Limit-on-Open (LOO) Order” and move the rule text to new Rule 13(c)(3); (v) rename a “Market ‘At-the-Close’ Order” as a “Market-on-Close (MOC) Order” and move the rule text to new Rule 13(c)(4); and (vi) rename a “Market ‘On-the-Open’ Order” as a “Market-on-Open (MOO) Order” and move the rule text to new Rule 13(c)(5).

Proposed new subsection (d) of Rule 13 would specify the Exchange’s existing orders that include instructions not to display all or a portion of the order. The order types proposed to be included in this new subsection are:

- **Mid-point Passive Liquidity (“MPL”) Orders.** Existing rule text governing MPL Orders would be moved to new Rule 13(d)(1) with non-substantive changes to capitalize the term Limit Order, update cross references, and refer to “Add Liquidity Only” as ALO, since ALO is now a separately defined term in new Rule 13(e)(1). The Exchange also proposes to clarify the rule text by deleting the term “including” from the phrase “[a]n MPL Order is not eligible for manual executions, including openings, re-openings, and closings,” because MPL Orders would not participate in an opening, re-opening, or closing that is effectuated electronically.<sup>9</sup> The Exchange further proposes to make a substantive amendment to the rule text set forth in new Rule 13(d)(1)(C) to specify that Exchange systems would reject an MPL Order on entry if the Minimum Triggering Volume (“MTV”) is larger than the size of the order and would reject a request to partially cancel a resting MPL Order if it would result in the MTV being larger than the size of the order and make conforming changes to the existing rule text. The Exchange would continue to enforce an MTV restriction if the unexecuted portion of an MPL Order with an MTV is less than the MTV. The Exchange believes that this proposed rule change would prevent an entering firm from causing an MPL Order to have an MTV that is larger than the order, thereby bypassing contra-side interest that is larger than the size of the MPL Order.<sup>10</sup> Finally, the

Exchange proposes to make a non-substantive change to new Rule 13(d)(1)(E) to replace the term “discretionary trade” with “d-Quote,” because d-Quotes are the only type of Exchange interest that is eligible to include discretionary pricing instructions.<sup>11</sup>

- **Reserve Orders.** Existing rule text governing Reserve Orders would be moved to new Rule 13(d)(2) with non-substantive changes to capitalize the term “Limit Order” and hyphenate the term “Non-Displayed.” The Exchange proposes further non-substantive changes to the rule text governing Minimum Display Reserve Orders, which would be in new Rule 13(d)(2)(C), to clarify that a Minimum Display Reserve Order would participate in both automatic and manual executions. This is existing functionality relating to Minimum Display Reserve Orders<sup>12</sup> and the proposed rule text aligns with Rule 70(f)(i)—Equities governing Floor broker Minimum Display Reserve e-Quotes.<sup>13</sup> Similarly, the Exchange proposes non-substantive changes to the rule text governing Non-Displayed Reserve Orders, which would be in new Rule 13(d)(2)(D), to clarify that a Non-Displayed Reserve Order would not participate in manual executions. This is existing functionality relating to Non-Displayed Reserve Orders<sup>14</sup> and the

have an MTV larger than the size of the order, the Exchange will announce by Trader Update when this element of the proposed rule change will be implemented.

<sup>11</sup> See Rule 70.25—Equities (Discretionary Instructions for Bids and Offers Represented via Floor Broker Agency Interest Files (e-Quotes<sup>SM</sup>)).

<sup>12</sup> On October 1, 2008, the Commission approved the Exchange’s rule proposal to establish new membership, member firm conduct, and equity trading rules that were based on the existing NYSE rules to reflect that equities trading on the Exchange would be supported by the NYSE’s trading system. See Securities Exchange Act Release No. 58705 (Oct. 1, 2008), 73 FR 58995 (Oct. 8, 2008) (SR-Amex-2008-63) (approval order). Because the Exchange’s rules are based on the existing NYSE rules, the Exchange believes that pre-October 1, 2008 NYSE rule filings provide guidance concerning Exchange equity rules. See Securities Exchange Act Release No. 57688 (April 18, 2008), 73 FR 22194 at 22197 (April 24, 2008) (SR-NYSE-2008-30) (order approving NYSE rule change that, among other things, adopted new Reserve Order for which the non-displayed portion of the order is eligible to participate in manual executions) (“2008 Reserve Order Filing”).

<sup>13</sup> See 2013 Reserve e-Quote Filing, *supra* n. 7.

<sup>14</sup> See Securities Exchange Act Release No. 58845 (Oct. 24, 2008), 73 FR 64379 at 64384 (Oct. 29, 2008) (SR-NYSE-2008-46) (order approving the NYSE’s New Market Model, including adopting a Non-Displayed Reserve Order that would not be eligible to participate in manual executions); see also Securities Exchange Act Release No. 59022 (Nov. 26, 2008), 73 FR 73683 (Dec. 3, 2008) (SR-NYSEALTR-2008-10) (notice of filing and immediate effectiveness of rule change to conform Exchange equity rules with NYSE rules, including

proposed rule text aligns with Rule 70(f)(ii)—Equities governing Non-Display Reserve eQuotes excluded from the DMM.<sup>15</sup> Finally, in proposed new Rule 13(d)(2)(E), the Exchange proposes to clarify that the treatment of reserve interest, which is available for execution only after all displayable interest at that price point has been executed, is applicable to all Reserve Orders, and is not limited to Non-Displayed Reserve Orders.<sup>16</sup>

Proposed new subsection (e) of Rule 13 would specify the Exchange’s existing order types that, by definition, do not route. The order types proposed to be included in this new subsection are:

- **Add Liquidity Only (“ALO”) Modifiers.** Existing rule text governing ALO modifiers would be moved to new Rule 13(e)(1) with non-substantive changes to capitalize the term “Limit Order” and update cross-references. Existing rule text that is being moved to new Rule 13(e)(1)(A) currently provides that Limit Orders designated ALO may participate in opens and closes, but that the ALO instructions would be ignored. Because Limit Orders designated ALO could also participate in re-openings, and the ALO instructions would similarly be ignored, the Exchange proposes to clarify new Rule 13(e)(1)(A) to provide that Limit Orders designated ALO could participate in openings, re-openings, and closings, but that the ALO instructions would be ignored.

- **Do Not Ship (“DNS”) Orders.** Existing rule text governing DNS Orders would be moved to new Rule 13(e)(2) with non-substantive changes to capitalize the term “Limit Order” and replace the reference to “Display Book” with a reference to “Exchange systems.”

- **Intermarket Sweep Order.** Existing rule text governing ISOs would be moved to new Rule 13(e)(3) with non-substantive changes to capitalize the term “Limit Order”, update cross-references, and replace the reference to “Display Book” with a reference to “Exchange’s book.”

Proposed new subsection (f) of Rule 13 would specify the Exchange’s other existing order instructions and modifiers, including:

- **Do Not Reduce (“DNR”) Modifier.** Existing rule text governing DNR Orders would be moved to new Rule 13(f)(1)

adopting NYSE New Market Model and related changes to adoption of a Non-Displayed Reserve Order).

<sup>15</sup> See 2013 Reserve e-Quote Filing, *supra* n. 7.

<sup>16</sup> See 2008 Reserve Order Filing *supra* n. 12 at 22196 (displayable portion of Reserve Order executed together with other displayable interest at a price point before executing with reserve portion of the order).

<sup>9</sup> See Rule 123C.10—Equities (“Closings may be effectuated manually or electronically”) and Rule 123D(1)—Equities (“Openings may be effectuated manually or electronically”).

<sup>10</sup> The Exchange notes that because of technology changes associated with rejecting MPL Orders that

with non-substantive changes to capitalize the terms “Limit Order” and “Stop Order.” In addition, the Exchange believes that because DNR instructions would be added to an order, DNR is more appropriately referred to as a modifier rather than as an order type.

- **Do Not Increase (“DNI”) Modifiers.** Existing rule text governing DNI Orders would be moved to new Rule 13(f)(2) with non-substantive changes to capitalize the terms “Limit Order” and “Stop Order.” In addition, the Exchange believes that because DNI instructions would be added to an order, DNI is more appropriately referred to as a modifier rather than as an order type.

- **Pegging Interest.** Existing rule text governing Pegging Interest and related subsections would be moved to new Rule 13(f)(3) with no changes to the existing rule text. The Exchange proposes to add rule text to new Rule 13(f)(3)(A)(iv)(a) to clarify the definition of “next best-priced available interest” in that Rule. Specifically, the Exchange has recently adopted non-displayed order types that are priced based on the PBBO, including MPL Orders, discussed above, and Retail Price Improvement Orders (“RPI”), defined in Rule 107C(a)(4)—Equities.<sup>17</sup> Because Pegging Interest would not peg to either MPL Orders or RPIs, the Exchange proposes to clarify that for purposes of new Rule 13(f)(3)(A)(iv)(a), the term next available best-priced interest refers to the highest- (lowest-) priced buy (sell) interest within the specified price range of pegging interest to buy (sell), including displayable bids (offers), Non-Display Reserve Orders, Non-Display Reserve e-Quotes, odd-lot sized interest, and protected bids (offers) on away markets, but does not include non-displayed interest that is priced based on the PBBO. The Exchange notes that this would be applicable regardless of whether an MPL Order or RPI is marketable.<sup>18</sup>

- **Retail Modifiers.** Existing rule text governing Retail Modifiers and related

subsections would be moved to new Rule 13(f)(4) with non-substantive changes to update cross-references.

- **Self-Trade Prevention (“STP”) Modifier.** Existing rule text governing STP Modifiers and related subsections would be moved to new Rule 13(f)(5) with non-substantive changes to capitalize the terms “Limit Orders,” “Market Orders,” and “Stop Orders” and hyphenate the term “Self-Trade Prevention.”

- **Sell “Plus”—Buy “Minus” Instructions.** Existing rule text governing Sell “Plus”—Buy “Minus” Orders would be moved to new Rule 13(f)(6) with non-substantive changes to break the rule into subsections, capitalize the terms “Market Order,” “Limit Order,” and “Stop Order,” and replace the references to Display Book with references to Exchange systems. In addition, the Exchange proposes to reclassify this as an order instruction rather than as a separate order.

- **Stop Orders.** Existing rule text governing Stop Orders would be moved to new Rule 13(f)(7) with non-substantive changes to break the rule into subsections, capitalize the term “Market Order,” and replace references to “Exchange’s automated order routing system” with references to “Exchange systems.”

The Exchange proposes to make conforming changes to Rule 501(d)(2)—Equities relating to the list of order types that are not accepted for trading in UTP Securities by: (i) Replacing the term “Market or Limit at the Close” with “MOC or LOC”; (ii) replacing the term “At the Opening or At the Opening Only (“OPG”)” with “MOO or LOO”; (iii) deleting the GTX Order reference, as an order instruction that the Exchange no longer accepts; and (iv) updating the subsection rule numbering accordingly.

As part of the proposed restructure of Rule 13, the Exchange proposes to move existing rule text in Rule 13 governing the definition of “Routing Broker” to Rule 17(c), without any change to the rule text. The Exchange believes that Rule 17—Equities is a more logical location for the definition of Routing Broker because Rule 17(c)—Equities governs the operations of Routing Brokers.

In addition, the Exchange proposes to delete existing rule text in Rule 13 governing Not Held Orders and add rule text relating to not held instructions to supplementary material .20 to Rule 13. Supplementary material .20 to Rule 13 reflects obligations that members have in handling customer orders. Because not held instructions are instructions from a customer to a member or member

organization regarding the handling of an order, and do not relate to instructions accepted by Exchange systems for execution, the Exchange believes that references to not held instructions are better suited for this existing supplementary material.

Accordingly, the Exchange proposes to amend supplementary material .20 to Rule 13 to add that generally, an instruction that an order is “not held” refers to an unpriced, discretionary order voluntarily categorized as such by the customer and with respect to which the customer has granted the member or member organization price and time discretion. The Exchange believes that this proposed amendment aligns the definition of “not held” with guidance from the Financial Industry Regulatory Authority, Inc. (“FINRA”) and other markets regarding not held instructions.<sup>19</sup> The Exchange notes that the existing Rule 13 text regarding how to mark a Not Held Order, e.g., “not held,” “disregard tape,” “take time,” etc., are outdated references regarding order marking between a customer and a member or member organization. All Exchange members and member organizations that receive customer orders are subject to Order Audit Trail System (“OATS”) obligations, consistent with Rule 7400—Equities Series and FINRA Rule 7400 Series, which require that order-handling instructions be documented in OATS. Among the order-handling instructions that can be captured in OATS is whether an order is not held.<sup>20</sup> The Exchange believes that these OATS-related obligations now govern how a member or member organization records order-handling instructions from a customer and therefore the terms currently set forth in Rule 13 relating to Not Held Orders are no longer necessary.

Finally, the Exchange proposes to amend Rule 70.25—Equities governing d-Quotes to clarify that certain functionality set forth in the Rule is no longer available. Specifically, Rule 70.25(c)(ii)—Equities currently provides

<sup>17</sup> See Securities Exchange Act Release Nos. 71329 (Jan. 16, 2014), 79 FR 3904 (Jan. 23, 2014) (SR-NYSEMKT-2013-84) (approval order for the Exchange’s adoption of the MPL Order); and 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR-NYSEAmex-2011-84) (approval order for the Exchange’s Retail Liquidity Program, which adopted the new RPI).

<sup>18</sup> For example, assume the best protected bid (“PBB”) is \$10.00, the Exchange has pegging interest to buy at \$9.99, an MPL Order priced at \$9.98 and a Non-Displayed Reserve Order to buy priced at \$9.97. Because the PBB is outside the specified price range of the pegging interest to buy, it would peg to the next available best-priced interest, which in this scenario would be the Non-Displayed Reserve Order to buy priced at \$9.97. The pegging interest to buy would not peg to the MPL Order to buy priced at \$9.98.

<sup>19</sup> See FINRA Regulatory Notice 11-29, Answer 3 (June 2011) (“Generally, a ‘not held’ order is an unpriced, discretionary order voluntarily categorized as such by the customer and with respect to which the customer has granted the firm price and time discretion.”). See also Definition of Market Not Held Order on Nasdaq.com Glossary of Stock Market Terms, available at <http://www.nasdaq.com/investing/glossary/m/market-not-held-order>.

<sup>20</sup> See FINRA OATS Frequently Asked Questions—Technical, at T21 (“An order submitted by a customer who gives the broker discretion as to the price and time of execution is denoted as a “Not Held” order.”), available at <http://www.finra.org/Industry/Compliance/MarketTransparency/OATS/FAQ/P085542>.

that a Floor broker may designate a maximum size of contra-side volume with which it is willing to trade using discretionary pricing instructions. Because this functionality is not available, the Exchange proposes to delete references to the maximum discretionary size parameter from Rules 70.25(c)(ii)—Equities and (c)(v)—Equities. In addition, the Exchange proposes to amend Rule 70.25(c)(iv)—Equities to clarify that the circumstances of when the Exchange would consider interest displayed by other market centers at the price at which a d-Quote may trade are not limited to determining when a d-Quote's minimum or maximum size range is met. Accordingly, the Exchange proposes to delete the clause "when determining if the d-Quote's minimum and/or maximum size range is met." The Exchange believes that the proposed changes to Rule 70.25(c)—Equities will provide clarity and transparency regarding the existing functionality relating to d-Quotes at the Exchange.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>21</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>22</sup> in particular, because it 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, 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 proposed restructuring of Rule 13, to group existing order types to align by functionality, would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators, and the public can more easily navigate the Exchange's rulebook and better understand the order types available for trading on the Exchange. In addition, the Exchange believes that the proposed revisions to Rule 13 and related conforming changes to Rule 501(d)(2)—Equities promote clarity regarding existing functionality that has been approved in prior rule filings, but which may not have been codified in rule

text.<sup>23</sup> Moreover, the Exchange believes that moving rule text defining a Routing Broker to Rule 17—Equities represents a more logical location for such definition, thereby making it easier for market participants to navigate Exchange rules. Likewise, the Exchange believes the proposed changes to "Not Held Order," to move it to supplementary material .20 to Rule 13 and revise the rule text to conform with guidance from FINRA and OATS requirements, would remove impediments to and perfect the mechanism of a free and open market and a national market system by applying a uniform definition of not held instructions across multiple markets, thereby reducing the potential for confusion regarding the meaning of not held instructions.

The Exchange further believes that the proposed amendment regarding MPL Orders to reject both MPL Orders with an MTV larger than the size of the order and instructions to partially cancel an MPL Order that would result in an MTV larger than the size of the order would remove impediments to and perfect the mechanism of a free and open market and national market system in general because it could potentially reduce the ability of a member organization from using MPL Orders to bypass contra-side interest that may be larger than the size of the MPL Order.

Finally, the Exchange believes that the proposed changes to Rule 70.25(c)—Equities would remove impediments to and perfect the mechanism of a free and open market and national market system in general because it assures that the Exchange's rules align with the existing functionality available at the Exchange for d-Quotes.

## 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 re-structure Rule 13 and remove rule text that relates to functionality that is no longer operative, thereby reducing confusion and making the Exchange's rules easier to 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days of such date (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2014-95 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-2014-95. 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

<sup>21</sup> 15 U.S.C. 78f(b).

<sup>22</sup> 15 U.S.C. 78f(b)(5).

<sup>23</sup> See *supra* nn. 12–17.

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-NYSEMKT-2014-95 and should be submitted on or before December 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2014-27441 Filed 11-19-14; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73608; File No. SR-ICEEU-2014-19]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Finance Procedures

November 14, 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 November 6, 2014, ICE Clear Europe Limited ("ICE Clear Europe" or "the Clearing House") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(4)(ii) thereunder,<sup>4</sup> so that the proposal was effective upon filing with the Commission. 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 principal purpose of the proposed changes is to facilitate the use by F&O Clearing Members of an additional triparty collateral service provider.

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

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

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

###### 1. Purpose

The purpose of the amendments is to modify the Finance Procedures to appoint Clearstream Banking as an additional triparty collateral service provider in addition to Euroclear Bank, which currently acts as the sole service provider. Clearstream Banking will only serve as a triparty collateral service provider for Original Margin provided in respect of F&O Contracts.

Specifically, changes are made throughout paragraph 3 of the Finance Procedures to add a reference to Clearstream Banking and to remove references to Euroclear Bank as the sole triparty collateral service provider, as appropriate. Paragraph 3.1 has been revised to designate Clearstream Banking as an additional triparty collateral service provider, solely with respect to Original Margin provided in respect of F&O Contracts. Paragraph 3.2 has been revised to reflect that there are two triparty collateral service providers, and to refer to equivalent documentation that may be required by Clearstream Banking as well as Euroclear Bank. Paragraph 3.9 has been revised to indicate that the Clearing House will provide to Clearing Members the relevant account details for the Clearing House's account at each triparty collateral service provider. Revised paragraph 3.9 also provides that the Clearing House will specify relevant details of the manner in which a Clearing Member may use a pledged

collateral arrangement in connection with a triparty collateral account. Current paragraph 3.10, which addressed pledged collateral arrangements only with Euroclear, has been removed as unnecessary. Remaining subparagraphs in paragraph 3 have been renumbered accordingly.

###### 2. Statutory Basis

ICE Clear Europe believes that the proposed changes are consistent with the requirements of Section 17A of the Act<sup>5</sup> and the regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act<sup>6</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The proposed amendments are intended to extend the Clearing House's existing triparty collateral service to allow optional use by Clearing Members of Clearstream Banking as an additional triparty collateral service provider with respect to Original Margin for F&O Contracts. The amendments do not otherwise change the substantive terms of the service. ICE Clear Europe views Clearstream Banking as substantially similar to Euroclear, the current service provider, from an operational and risk perspective and otherwise in terms of the safeguarding of funds and securities. As a result, ICE Clear Europe believes that the proposed changes will not adversely affect the safeguarding of securities or funds in the custody or control of ICE Clear Europe or for which it is responsible, and are therefore consistent with the requirements of Section 17A(b)(3)(F).<sup>7</sup>

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

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will provide additional flexibility to F&O Clearing Members by permitting the use, on a voluntary basis, of an alternative triparty collateral service provider. The changes will otherwise not affect the terms or conditions of any cleared contract or the

<sup>24</sup> 17 CFR 200.30-3(a)(12).

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

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

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

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

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).