

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78829; File No. SR-NYSEMKT-2016-86)

September 13, 2016

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Deadline for Implementing Rule 967.1NY(a)(2) and (3) until September 30, 2016

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on September 6, 2016, 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 Substance of the Proposed Rule Change

The Exchange proposes to extend the deadline for implementing Rule 967.1NY(a)(2) and (3) until September 30, 2016. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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

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<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.

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 is proposing to extend the deadline for implementing Rule 967.1NY(a)(2) and (3) until September 30, 2016. The Exchange has not met the current implementation deadline of July 31, 2016.

In March 2015, the Commission approved Rule 967.1NY, which provides a price protection risk mechanism for Market Maker quotes.<sup>4</sup> Rule 967.1NY provides two layers of price protection to incoming Market Maker quotes, rejecting those Market Maker quotes that exceed certain parameters, as a risk mitigation tool.<sup>5</sup> The Exchange has implemented the first layer of price protection (the NBBO Reasonability Check) and had until one year from the date of the Approval Order to implement the second layer of protection (the Underlying Stock Price/Strike Price Check) pursuant to Commentary .01 to Rule 967.1NY, which was March 4,

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<sup>4</sup> See Securities Exchange Act Release No. 74440 (March 4, 2015), 80 FR 12687 (March 10, 2015) (SR-NYSEMKT-2014-116) (Approval Order); see also Securities Exchange Act Release No. 74017 (January 8, 2015), 80 FR 1979 (January 14, 2015) (SR-NYSEMKT-2014-116) (Notice).

<sup>5</sup> The first layer of price protection assesses incoming sell quotes against the NBB and incoming buy quotes against the NBO (the "NBBO Price Reasonability Check"). Specifically, Rule 967.1NY(a)(1) provided that when an NBBO is available, a Market Maker quote would be rejected if it is priced a specified dollar amount or percentage through the contra-side NBBO. The second layer of price protection assesses the price of call or put bids against a specified benchmark (the "Underlying Stock Price/Strike Price Check"), per Rule 967.1NY(a)(2) and (3). This second layer of protection applies to bids in call options or put options when (1) there is no NBBO available, for example, during pre-opening or prior to conducting a re-opening after a trading halt, or (2) if the NBBO is so wide as to not reflect an appropriate price for the respective options series.

2016.<sup>6</sup>

In March 2016, because the Exchange had not yet implemented the Underlying Stock Price/Strike Price Check, the Exchange extended the deadline to implement Rule 967.1NY(a)(2) and (3) until July 31, 2016 (the “July 31<sup>st</sup> Deadline”).<sup>7</sup> Subsequent to this extension, the Exchange modified Commentary .01 to Rule 967.1NY to exclude from the Underlying Stock Price/Strike Price Check certain securities for which there was no reliable (or in some cases any) last sale data.<sup>8</sup> Although the Exchange had finalized the technology related to the Underlying Stock Price/Strike Price Check, because this technology was packaged in a larger technology release that is currently being rolled out, the Exchange was not able to implement the technology by the July 31<sup>st</sup> Deadline. The Exchange is in the process of implementing the technology release that includes the Underlying Stock Price/Strike Price Check and plans to complete this implementation no later than the end of September 2016. The Exchange believes the proposed extension of the July 31<sup>st</sup> Deadline until September 30, 2016 would provide the Exchange with sufficient time to implement the functionality related to the rule. Moreover, the proposed change would update the rule to reflect the extended deadline, thus making clear to investors and the public that the Underlying Stock Price/Strike Price Check is not yet implemented.<sup>9</sup>

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<sup>6</sup> See Securities Exchange Act Release No. 75151 (June 11, 2015), 80 FR 34770 (June 17, 2015) (SR-NYSEMKT-2015-42).

<sup>7</sup> See Securities Exchange Act Release No. 77356 (March 14, 2016), 81 FR 14917 (March 18, 2016) (SR-NYSEMKT-2016-36).

<sup>8</sup> See Securities Exchange Act Release No. 77749 (April 29, 2016), 81 FR 27184 (May 5, 2016) (SR-NYSEMKT-2016-47).

<sup>9</sup> The Exchange has issued Trader Updates informing its market participants that the functionality related to the Underlying Stock Price/Strike Price Check is not yet available but is currently being implemented (together with the other technology updates with which it was packaged). See, e.g., Trader Updates regarding Enhancements to Risk Control Functionality in Enhanced Certification Environment, dated 6/6/16, [available](#)

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> 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 the proposal promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system because an extension of the July 31<sup>st</sup> Deadline would enable the Exchange to complete its implementation of the technology related to the Underlying Stock Price/Strike Price Check, which is currently being implemented as part of a larger technology release. Moreover, the proposed extension would update the rule to reflect the extended deadline for implementation.

### 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 rule change is not designed to address any competitive issues, but rather, to extend the July 31<sup>st</sup> Deadline for implementing the functionality related to the Underlying Stock

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here, <https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSE%20Amex%20and%20Arca%20-%20Enhanced%20Risk%20Controls%20in%20Enhanced%20Cert.pdf> and regarding Risk Controls / Series Lookup Table Enhancements, dated 8/25/16, available here, <https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSE%20Amex%20-%20Risk%20Controls%20Release%20details.pdf>.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

Price/Strike Price Check, which is currently being implemented as part of a larger technology release.

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

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)<sup>12</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>14</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>15</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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to immediately extend the

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

implementation deadline for the Underlying Stock Price/Strike Price Check without delay and provide the Exchange additional time to implement the technology associated with such price protection. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.<sup>16</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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2016-86 on the subject line.

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<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2016-86. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2016-86, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Robert W. Errett  
Deputy Secretary

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