

(8) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(9) For initial and continued listing, the Fund must be in compliance with Rule 10A-3 under the Exchange Act.<sup>28</sup>

(10) The Fund's investments will be consistent with its investment objective and will not be used to provide multiple returns of a benchmark or to produce leveraged returns. The Fund's investments will not be used to seek performance that is the multiple or inverse multiple of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

(12) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

The Exchange represents that all statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules

and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor<sup>29</sup> for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m). This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 2. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be initially and continuously listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Exchange Act<sup>30</sup> and Section 11A(a)(1)(C)(iii) of the Exchange Act<sup>31</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>32</sup> that the proposed rule change (SR-NYSEArca-2016-46), as modified by Amendment No. 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-12782 Filed 5-31-16; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>29</sup> The Commission notes that certain other proposals for the listing and trading of managed fund shares include a representation that the exchange will "surveil" for compliance with the continued listing requirements. *See, e.g.*, Amendment No. 2 to SR-BATS-2016-04, available at: <http://www.sec.gov/comments/sr-bats-2016-04/bats201604-2.pdf>. In the context of this representation, it is the Commission's view that "monitor" and "surveil" both mean ongoing oversight of the Fund's compliance with the continued listing requirements. Therefore, the Commission does not view "monitor" as a more or less stringent obligation than "surveil" with respect to the continued listing requirements.

<sup>30</sup> 15 U.S.C. 78f(b)(5).

<sup>31</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>32</sup> 15 U.S.C. 78s(b)(2).

<sup>33</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, June 2, 2016 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters; and

Other matters relating to enforcement proceedings.

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

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

Dated: May 26, 2016.

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-12948 Filed 5-27-16; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77902; File No. SR-NYSEMKT-2016-55]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 930NY Regarding Definition of Floor Broker

May 25, 2016.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the

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

<sup>28</sup> See 17 CFR 240.10A-3.

“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on May 17, 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 the Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 930NY (Floor Broker Defined). 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.

## **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 proposes to amend Rule 930NY to update the definition of Floor Broker.<sup>4</sup> The proposed rule change would harmonize the Floor Broker definition with the recently updated rule of another competing

options exchange—specifically NASDAQ OMX PHLX LLC (“PHLX”).<sup>5</sup>

Rule 930NY(a) defines a Floor Broker as “a sole proprietor ATP Holder or a representative of an ATP Holder who is registered with the Exchange for the purpose, while on the Exchange Floor, of accepting and executing option orders received from ATP Holders.” The Rule further provides that “[a] Floor Broker shall not accept an order from any other source unless he is a sole proprietor ATP Holder or a representative of an ATP Holder approved to transact business with the public in accordance with Rule 441, in which event he may accept orders for customers of the ATP Holder.”

The Exchange notes that Floor Brokers, as registered Broker/Dealers,<sup>6</sup> have long handled orders from Broker/Dealers who may not be ATP Holders. In addition, Floor Brokers may accept orders from non-Broker/Dealers (*i.e.*, public customers).<sup>7</sup> Thus, the Exchange proposes to clarify Rule 930NY(a) by removing the language regarding the types of market participants from whom a Floor Broker may accept an order.<sup>8</sup> The updated rule would provide that a Floor Broker is an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders.<sup>9</sup> Further, as proposed, a Floor Broker may accept orders from ATP Holders, Broker Dealers that are non-ATP Holders, Professional Customers, pursuant to Rule 930NY(b), as well as from public customers provided the Floor Broker is properly qualified to do business with the public.<sup>10</sup>

This proposed rule change would reflect current practice on the Exchange, specifically that a Floor Broker may accept orders from Broker Dealers that are not ATP Holders. The proposed modification would not alter a Floor Broker’s responsibilities. Further, the

proposal would have no impact on a Floor Broker’s ability to accept orders from the public.<sup>11</sup>

#### **2. Statutory Basis**

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that the proposal is designed to remove language that could be interpreted as a limitation on orders that may be accepted by Floor Brokers to reflect current practice on the Exchange, which would promote just and equitable principles of trade, and remove impediments to, and perfect the mechanism of a free and open market. The proposed change would make clear to market participants that a Floor Broker may accept an order from a non-ATP Holder that is a Broker Dealer, which adds clarity and transparency to Exchange rules to the benefit of all market participants. Thus, the Exchange believes that the proposal would help prevent confusion and help ensure that floor brokerage services are widely available to various types of market participants, which should, in turn, promote just and equitable principles of trade.

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

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. With respect to inter-market competition, the proposed rule change is a competitive change that is substantially similar to rules in place at another competing options exchange.<sup>14</sup> With respect to intra-market competition, the proposal applies to all NYSE MKT Floor Brokers.

<sup>5</sup> See Securities Exchange Act Release No. 76800 (December 30, 2015), 81 FR 549, (January 6, 2016) (SR-PHLX-2015-114) (adopting updated definition of Floor Broker in PHLX Rule 1060 on immediately effective basis).

<sup>6</sup> See Rule 930NY(a).

<sup>7</sup> To handle the orders of public customers, Floor Brokers must be properly qualified to do business with the public, per Section 3 (Conduct of Accounts for Options Trading), generally, and Rule 920 (Registration and Examination of Options Personnel), specifically.

<sup>8</sup> See proposed Rule 930NY(a). This practice is consistent with the rules of other exchanges. *See, e.g., supra* n. 5 (PHLX Rule 1060) and CBOE Rule 6.70 (permitting CBOE Floor Brokers to accept orders from non-member broker-dealers).

<sup>9</sup> Consistent with the proposed changes to Rule 930NY(a), the Exchange proposes to delete the cross reference to this section from Rule 930NY(b)(1). *See* proposed Rule 930NY(b)(1).

<sup>10</sup> *See supra* n. 7.

<sup>11</sup> *See id.*

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> *See supra* n. 5.

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

<sup>3</sup> 17 CFR 240.19b–4.

<sup>4</sup> The Exchange notes that, other than adding reference to Professional Customers, the definition of Floor Broker has remained unchanged since its adoption in 2009, as part of the Exchange’s adoption of the Rule 900NY series. *See* Securities Exchange Act Release No. 59472 (February 27, 2009) 74 FR 9843 (March 6, 2009) (NYSEALTR–2008–14), which established rules for the trading of listed options. The Rule 900NY suite of rules was substantially based on the existing Rules of NYSE Arca LLC. *See also* Securities Exchange Act Release No. 61818 (March 31, 2010) 75 FR 17457 (April 6, 2010) (SR–NYSE Amex–2010–18) (relating to accepting orders from Professional Customers).

*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) thereunder.<sup>17</sup>

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>18</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

- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2016-55 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-2016-55. 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-NYSEMKT-2016-55, and should be submitted on or before June 22, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016-12788 Filed 5-31-16; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-77901; File No. SR-NYSEMKT-2016-26]

**Self-Regulatory Organizations; NYSE MKT LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No.1 Thereto, To Amend the Eighth Amended and Restated Operating Agreement of the Exchange**

May 25, 2016.

**I. Introduction**

On March 29, 2016, NYSE MKT LLC ("Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the Eighth Amended and Restated Operating Agreement of the Exchange ("Operating Agreement"). The proposed rule change was published for comment in the **Federal Register** on April 12, 2016.<sup>3</sup> The Commission received no comments in response to the Notice. On May 19, 2016, the Exchange filed Amendment No. 1 to the proposal.<sup>4</sup> This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

**II. Description of the Proposal**

The Exchange proposes to amend the Operating Agreement to (1) change the process for nominating non-affiliated directors; (2) remove a reference to an obsolete category of member; and (3) add references to Designated Market Makers ("DMMs").

*A. Process for Nominating Non-Affiliated Directors*

Pursuant to the Operating Agreement, at least 20 percent of the Exchange's Board of Directors ("Board") is made up of "Non-Affiliated Directors" (commonly referred to as "fair representation directors").<sup>5</sup> Pursuant to

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

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

<sup>3</sup> Securities Exchange Act Release No. 77536 (April 6, 2016), 81 FR 21636 ("Notice").

<sup>4</sup> Amendment No. 1 is a technical amendment to retain the initial reference to "DCRC Candidates" in Section 2.03(a)(iii) of the Operating Agreement rather than to delete it. Because Amendment No. 1 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

<sup>5</sup> Pursuant to Section 2.03(a) of the Operating Agreement, Non-Affiliated Directors are persons who are not members of the Board of Directors of Intercontinental Exchange, Inc. ("ICE"). A person may not be a Non-Affiliated Director unless he or she is free of any statutory disqualification, as defined in Section 3(a)(39) of the Act, 15 U.S.C.

<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). 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>18</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>19</sup> 17 CFR 200.30-3(a)(12).