

changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

*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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) <sup>17</sup> of the Act and subparagraph (f)(2) of Rule 19b-4 <sup>18</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2016-68 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities

and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2016-68. 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 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-2016-68 and should be submitted on or before November 28, 2016.

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

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016-26789 Filed 11-4-16; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-79209; File No. SR-NYSEArca-2016-138]**

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule Effective November 1, 2016**

November 1, 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 October 25, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "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 the Substance of the Proposed Rule Change**

The Exchange proposes to amend the NYSE Arca Options Fee Schedule ("Fee Schedule"). The Exchange proposes to implement the fee change effective November 1, 2016. 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 purpose of this filing is to provide for fees for manually executed Professional Customer orders, effective November 1, 2016.

Currently, the Exchange does not differentiate between Customer and Professional Customer orders for purposes of manual transaction fees, and Customers and Professional Customers are not charged any fee for orders executed in open outcry.<sup>4</sup>

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

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

<sup>4</sup> Per the Fee Schedule, "[u]nless Professional Customer executions are specifically delineated, such executions will be treated as Customer executions for fee purposes." See Fee Schedule, available here, <https://www.nyse.com/publicdocs/>

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(2).

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

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

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

The Exchange proposes to assess a fee of \$0.25 per contract for Professional Customer orders that are executed manually, and to modify the Fee Schedule to reflect this change. This proposed assessment would mean Professional Customers are charged the same rate as Firms and Broker Dealers for manual orders.

The Exchange is not proposing any other modification to Transaction Fees at this time.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>6</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because Professional Customers submit more than 390 orders in listed options per day on average and generally engage in trading activity similar to non-Customers. Thus, the Exchange believes it is appropriate to charge Professional Customers the same fee it assesses Firms and Broker Dealers (*i.e.*, non-Customers) for manual transactions. In addition, the proposed change is competitive as other options exchanges likewise treat Professional Customers as non-Customers for purposes of order [sic] executed in open outcry.<sup>7</sup>

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,<sup>8</sup> 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. Instead, the Exchange believes that the

proposed change would continue to encourage competition by treating Professional Customers on the same basis as non-Customers. The Exchange's proposal does not place on undue burden on inter-market competition because other exchanges likewise charge Professional Customers the same rate as non-Customer for manual transactions.<sup>9</sup> The Exchange does not believe that the proposed change will impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the degree to which fee changes in this market may impose any burden on competition is extremely limited. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

### *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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>10</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>11</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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>12</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-NYSEArca-2016-138 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2016-138. 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-NYSEArca-2016-138, and should be submitted on or before November 28, 2016.

[nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](http://nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>7</sup> See, e.g., NYSE Amex Options fee schedule, available here, [https://www.nyse.com/publicdocs/nyse/markets/amexoptions/NYSE\\_Amex\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/amexoptions/NYSE_Amex_Options_Fee_Schedule.pdf) (charging the Professional Customers the same rate as Broker Dealers and Firms); NASDAQ OMX PHLX fee schedule, available here, <http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing> (same).

<sup>8</sup> 15 U.S.C. 78f(b)(8).

<sup>9</sup> See *supra* note 6.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-26788 Filed 11-4-16; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79213; File No. SR-NYSEMKT-2016-98]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .05 to Rule 980NY

November 1, 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 October 25, 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 Exchange. 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 Commentary .05 to Rule 980NY (Electronic Complex Order Trading) to enhance the price protection filters applicable to electronically entered Complex Orders. 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange is proposing to amend Commentary .05 to Rule 980NY to enhance the Exchange’s price protection filters applicable to electronically entered Complex Orders,<sup>4</sup> including by clarifying how the functionality operates and expanding its application, as described below.

##### Clarifying the Description of the Filter

Commentary .05 to Rule 980NY currently sets forth the Price Protection Filter (the “Filter”) applicable to each incoming “Electronic Complex Order” (or “ECO”).<sup>5</sup> The Filter automatically rejects incoming ECOs with a price that deviates from the current market by the Specified Amount,<sup>6</sup> which varies depending on the smallest MPV of any leg in the ECO.<sup>7</sup>

First, the Exchange proposes to modify its description of how the Filter operates to make it easier for market participants to understand. Commentary .05 to Rule 980NY currently describes the Filter as rejecting an ECO if “the net debit/credit limit price of the order is greater (less) than the derived net debit/credit NBBO for the contra-side of that

same strategy by an amount specified by the Exchange (‘Specified Amount’).” The Exchange proposes to replace references to the “derived contra-side net debit/credit NBBO” with the “contra-side Complex NBBO,” as the Exchange has defined Complex NBBO since implementing the Filter.<sup>8</sup> This proposed modification would not affect the operation of the rule. Rather, the Exchange believes this change would reduce redundancy and add internal consistency to Exchange rules. Further, regarding the description of how the Filter operates, the Exchange proposes to provide that the Filter would reject an ECO back to the submitting ATP Holder if the sum of the following would be less than zero (\$0.00):

(i) The net debit (credit) limit price of the order,

(ii) the contra-side Complex NBBO for that same Complex Order, and

(iii) the Specified Amount.<sup>9</sup>

The proposed modification does not alter how the Filter is applied. The Filter would continue to help prevent the execution of aggressively-priced ECOs (*i.e.*, priced so far away from the prevailing contra-side NBBO market for the same strategy) that could cause significant price dislocation in the market. The Exchange would continue to apply the Filter to help ensure that market participants do not receive an execution at a price significantly inferior to the contra-side NBBO. However, the proposed modification would add specificity and more clearly convey the operation of the Filter. The Exchange believes this proposed change would add clarity and transparency to the rule text and enable market participants to better understand the operation of the Filter, and the calculation that the Exchange applies to incoming ECOs without altering the operation of the Filter.

Second, the Exchange proposes to modify its explanation of how the Specified Amount may be adjusted based on the characteristics of the ECO. Currently, paragraphs (b)–(d) of Commentary .05 describe how the Filter “will be applied by” the Specified Amount, which Specified Amount is multiplied by the component of the leg ratio that the leg of the order

<sup>4</sup> Rule 900.3NY(e) defines a Complex Order as any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing particular investment strategy.

<sup>5</sup> Per Rule 980NY, an ECO is a Complex Order that has been entered into the NYSE Amex Options System (“System”) and routed to the Complex Matching Engine (“CME”) for possible execution. The CME is the mechanism in which ECOs are executed against each other or against individual quotes and orders in the Consolidated Book. ECOs that are not immediately executed by the CME are ranked in the Consolidated Book. See Rule 980NY(a).

<sup>6</sup> The Specified Amount is defined as: (i) .10 for orders where the smallest Minimum Price Variation (“MPV”) of any leg of the Electronic Complex Order is .01; (ii) .15 for orders where the smallest MPV of any leg of the Electronic Complex Order is .05; and .30 for orders where the smallest MPV of any leg of the Electronic Complex Order is .10. See Commentary .05 to Rule 980NY.

<sup>7</sup> See Commentary .05 to Rule 980NY(a). The Exchange notes that each ECO is entered into the System at a net debit (credit) price for the entire strategy and does not include specified prices for any single series component (“leg”) of the ECO. See also Securities and Exchange Act Release No. 70674 (October 11, 2013), 78 FR 62917 (October 22, 2013) (SR-NYSEMKT-2013-80) (Notice of filing, which describes the operation of the Filter) (herein referred to as the “Original Release”).

<sup>8</sup> See Rule 900.2NY(41)(b) (defining Complex NBBO as “the NBBO for a given complex order strategy as derived from the national best bid and national best offer for each individual component series of a Complex Order”). See also Securities and Exchange Act Release No. 73284 (October 1, 2014), 79 FR 60560 (October 7, 2014) (SR-NYSEMKT-2014-84) (Notice of filing and immediate effectiveness of proposed rule change to codify the term Complex NBBO).

<sup>9</sup> See proposed Commentary .05(a) to Rule 980NY.

<sup>13</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.