

opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Positions and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.<sup>2</sup>

<sup>2</sup> The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a

The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund ("Master Fund") beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(j) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Robert W. Errett,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78015; File Nos. SR-NYSE-2016-18; SR-NYSEMKT-2016-31]

### Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Notice of Filings of Amendment No. 1, and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendment No. 1, To Provide for How the Exchanges Would Determine an Official Closing Price if the Exchanges Are Unable To Conduct a Closing Transaction

June 8, 2016.

#### I. Introduction

On March 2, 2016, New York Stock Exchange LLC ("NYSE") and NYSE MKT LLC ("NYSE MKT") (each an "Exchange," and together the "Exchanges") each 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, respectively, NYSE Rule 123C and NYSE MKT Rule 123C—Equities (both hereinafter "Rule 123C") to provide for how each Exchange will determine an Official Closing Price if it is unable to conduct a closing transaction. The proposed rule changes were published for comment in the **Federal Register** on March 11, 2016.<sup>3</sup> The Commission received one comment letter in response to the NYSE proposal.<sup>4</sup>

On April 21, 2016, the Commission extended the time period within which to approve the proposed rule changes, disapprove the proposed rule changes, or institute proceedings to determine whether to disapprove the proposed rule changes, to June 9, 2016.<sup>5</sup> On May

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

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

<sup>3</sup> See Securities Exchange Act Release No. 77305 (March 7, 2016), 81 FR 12977 (SR-NYSE-2016-18) ("NYSE Notice"); Securities Exchange Act Release No. 77306 (March 7, 2016), 81 FR 12986 (SR-NYSEMKT-2016-31) ("MKT Notice"). The proposals are substantially similar and the Commission is hereby noticing the Amendments No. 1 and granting accelerated approval jointly.

<sup>4</sup> See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, Commission, dated April 5, 2016 (submitted to File No. SR-NYSE-2016-18) ("SIFMA Letter"). The Commission notes that this comment letter was also submitted in response to a similar filing by the Nasdaq Stock Market LLC. See Securities Exchange Act Release No. 77309 (March 7, 2016), 81 FR 13007 (March 11, 2016) (SR-NASDAQ-2016-035).

<sup>5</sup> See Securities Exchange Act Release Nos. 77677, 81 FR 24907 (April 27, 2016) (SR-NYSE-2016-18);

Continued

26, 2016, NYSE submitted a response to the comment letter,<sup>6</sup> and each Exchange filed an Amendment No. 1 to its proposal.<sup>7</sup> The Commission is publishing this notice to solicit comments on the Amendments No. 1 from interested persons, and is approving the proposed rule changes, each as modified by its respective Amendment No. 1, on an accelerated basis.

## II. Description of the Proposed Rule Changes

Each Exchange proposes to amend its rules to specify closing contingency procedures for determining an Official Closing Price for its listed securities if it is unable to conduct a closing transaction in one or more securities due to a systems or technical issue. Specifically, each Exchange proposes to amend its Rule 123C to provide for how it would determine an Official Closing Price if it is impaired.<sup>8</sup>

For each Exchange, under its current rules, the “Official Closing Price” of a security it lists is the price established in a closing transaction of one round lot or more.<sup>9</sup> If there is no closing

transaction in a security, or if a closing transaction is less than one round lot, the Official Closing Price will be the most-recent last-sale-eligible trade in that security on the Exchange on that trading day.<sup>10</sup> Currently, if an Exchange is unable to conduct a closing transaction in a security due to a systems or technical issue, the Official Closing Price will be the last consolidated last-sale-eligible trade for that security during regular trading hours on that trading day, and if there were no such consolidated last-sale-eligible trades, the Official Closing Price will be the prior day’s Official Closing Price.<sup>11</sup>

Each Exchange proposes to amend its Rule 123C(1)(e)(ii) to provide for a proposed new contingency plan for how it would determine an Official Closing Price if it is unable to conduct a closing transaction in a security due to a systems or technical issue.<sup>12</sup> Each Exchange proposes that, if it determines at or before 3:00 p.m. Eastern Time that it is unable to conduct a closing transaction in one or more securities due to a systems or technical issue, it would designate an alternate exchange for those securities. The affected Exchange would publicly announce the exchange designated as the alternate exchange via Trader Update.<sup>13</sup> In these circumstances, the Official Closing Price of each affected security on an Exchange would be determined based on the following hierarchy:

- The Official Closing Price would be the official closing price for that security under the rules of the designated

alternate exchange.<sup>14</sup> For example, if NYSE Arca is the designated alternate exchange, the Official Closing Price would be based on NYSE Arca Equities Rule 1.1(ggP), which defines how NYSE Arca establishes an official closing price.<sup>15</sup> If Nasdaq were designated as the alternate exchange, the Official Closing Price would be the official closing price established in Nasdaq Rule 4754.

- If the designated alternate exchange does not have an official closing price in a security, the Official Closing Price would be the volume-weighted average price (“VWAP”) of the consolidated last-sale-eligible prices of the last five minutes of trading during regular trading hours up to the time that the VWAP is processed.<sup>16</sup> The VWAP would include any closing transactions on an exchange and would take into account any trade breaks or corrections up to the time the VWAP is processed.

- If the designated alternate exchange does not have an official closing price in a security and there were no consolidated last-sale-eligible trades in the last five minutes of trading during regular trading hours in that security, the Official Closing Price would be the last consolidated last-sale-eligible trade during regular trading hours on that trading day.<sup>17</sup>

- If the designated alternate exchange does not have an official closing price in a security and there were no consolidated last-sale-eligible trades in a security on a trading day in that security, the Official Closing Price would be the prior day’s Official Closing Price.<sup>18</sup>

- If an Official Closing Price for a security cannot be determined as provided above, and there is no prior day’s Official Closing Price, the Exchange would not publish an Official Closing Price for that security.<sup>19</sup>

In addition, each Exchange has proposed Rule 123C(1)(e)(iii) to describe how it would determine the Official Closing Price for a security if it determines after 3:00 p.m. Eastern Time that it is unable to conduct a closing transaction in one or more securities

77676, 81 FR 24907 (April 27, 2016) (SR–NYSEMKT–2016–31).

<sup>6</sup> See Letter from Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange, to Brent J. Fields, Secretary, Commission, dated May 26, 2016 (“NYSE Response Letter”).

<sup>7</sup> In its Amendment No. 1, each Exchange amended its proposed rule text to (1) add proposed Rule 123C(1)(e)(iv), which provides that, if the Exchange determines the Official Closing Price under Rule 123C(1)(e)(ii) or (e)(iii), the Exchange will publicly announce the manner by which it will determine its Official Closing Price and the designated alternate exchange, if applicable, and will cancel all open interest designated for the Exchange close; and (2) amend Rule 123C(1)(e)(i) to specify how the Exchange will determine the Official Closing Price for a security that has transferred its listing to the Exchange or is a new listing and does not have any last-sale-eligible trades on the Exchange on its first day of trading on the Exchange. The Exchanges’ respective Amendments No. 1 are available at: <https://www.nyse.com/publicdocs/nyse/markets/nyse/rule-filings/filings/2016/NYSE-2016-18,%20Pt.%20Am.%201.pdf> and <https://www.nyse.com/publicdocs/nyse/markets/nyse-mkt/rule-filings/filings/2016/NYSEMKT-2016-31,%20Pt.%20Am.%201.pdf>.

<sup>8</sup> According to the Exchanges, this proposal was developed in consultation with one another, their affiliated exchange, NYSE Arca, Inc. (“NYSE Arca”), and the NASDAQ Stock Market LLC (“Nasdaq”), and took into consideration feedback from discussions with industry participants. See NYSE Notice, *supra* note 3, at 12978; NYSE MKT Notice, *supra* note 3, at 12986. The Commission notes that the Nasdaq Stock Market LLC has also filed a similar proposed rule change with the Commission. See Securities Exchange Act Release No. 77309 (March 7, 2016), 81 FR 13007 (March 11, 2016) (SR–NASDAQ–2016–035).

<sup>9</sup> See Rule 123C(1)(e)(i). See also Securities Exchange Act Release Nos. 76598 (Dec. 9, 2015), 80 FR 77688 (Dec. 15, 2015) (SR–NYSE–2015–62); 76601 (Dec. 9, 2015), 80 FR 77680 (Dec. 15, 2015) (SR–NYSEMKT–2015–98).

<sup>10</sup> See Rule 123C(1)(e)(i).

<sup>11</sup> See Rule 123C(1)(e)(ii).

<sup>12</sup> Each Exchange states that, if it determines that it is impaired before 3:00 p.m. and the Official Closing Price for an Exchange-listed security is determined pursuant to proposed Rule 123C(1)(e)(ii), the SIP would publish the Official Closing Price for that security no differently than how the SIP publishes the Official Closing Price for an Exchange-listed security pursuant to current Rule 123C(1)(e)(i). See NYSE Notice, *supra* note 3, at 12979; NYSE MKT Notice, *supra* note 3, at 12987–88. Accordingly, if the Official Closing Price of a security is determined pursuant to proposed Rule 123C(1)(e)(ii), the Exchanges note that recipients of SIP data would not have to make any changes to their systems. See NYSE Notice, *supra* note 3, at 12979; NYSE MKT Notice, *supra* note 3, at 12987–88.

<sup>13</sup> See NYSE Notice, *supra* note 3, at 12978; NYSE MKT Notice, *supra* note 3, at 12987. The Exchanges represent that they expect to designate an affiliated exchange as the alternate exchange and would designate Nasdaq only if the affiliated exchanges were also impacted by the systems or technical issue. See NYSE Notice, *supra* note 3, at 12978 n.6; NYSE MKT Notice, *supra* note 3, at 12987 n.6. In its respective Amendment No. 1, each Exchange specified that this determination would be publicly announced and that, in the event of such a determination, all open interest designated for the Exchange close would be deemed canceled. See Amendments No. 1.

<sup>14</sup> See Proposed Rule 123C(1)(e)(ii)(A).

<sup>15</sup> According to the Exchanges, NYSE Arca will be filing a rule proposal to amend its Rule 1.1(ggP)(1) to provide that the manner by which NYSE Arca determines the Official Closing Price for securities listed on NYSE Arca would also be applicable to any securities for which NYSE Arca conducts a closing auction, including securities that trade on an unlisted-trading-privileges basis. See NYSE Notice, *supra* note 3, at 12978 n.7; NYSE MKT Notice, *supra* note 3, at 12987 n.7.

<sup>16</sup> See proposed Rule 123C(1)(e)(ii)(B).

<sup>17</sup> See proposed Rule 123C(1)(e)(ii)(C).

<sup>18</sup> See proposed Rule 123C(1)(e)(ii)(D).

<sup>19</sup> See proposed Rule 123C(1)(e)(ii)(E).

due to a systems or technical issue.<sup>20</sup> According to each Exchange, if an announcement were made after 3:00 p.m. Eastern Time that the Exchange was impaired and unable to conduct a closing transaction, market participants would not have sufficient time to re-direct closing-only orders to an alternate venue.<sup>21</sup> Therefore, each Exchange proposes that the process for determining an Official Closing Price for a security under these circumstances would not contemplate a closing transaction on a designated alternate exchange. Accordingly, in such a scenario, each Exchange proposes to use the following hierarchy for determining the Official Closing Price for a security:

- The Official Closing Price would be the VWAP of the consolidated last-sale-eligible prices of the last five minutes of trading during regular trading hours up to the time that the VWAP is processed, including any closing transactions on an exchange.<sup>22</sup> The VWAP would take into account any trade breaks or corrections up to the time the VWAP is processed.

- If there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours in such security, the Official Closing Price would be the last consolidated last-sale-eligible trade during regular trading hours on that trading day.<sup>23</sup>

- If there were no consolidated last-sale-eligible trades in the security on a trading day, the Official Closing Price would be the prior day's Official Closing Price.<sup>24</sup>

- If an Official Closing Price for a security cannot be determined as provided above and there is no prior day's Official Closing Price, the

Exchange would not publish an Official Closing Price for that security.<sup>25</sup>

The Exchanges propose to implement the closing contingency procedures for determining an Official Closing Price no later than 120 days after approval, on a date to be announced via Trader Update.<sup>26</sup>

### III. Summary of Comments

As noted above, the Commission received one comment letter on the NYSE proposal and a response letter from NYSE.<sup>27</sup> The commenter generally supports the proposal but suggests certain modifications to the proposal.<sup>28</sup> The Commission notes that, while this comment letter was submitted in response only to the NYSE proposal, the Exchanges' proposals are substantively similar and the comments raised are equally relevant to both.

First, the commenter suggests that NYSE's rules should specify that any designation of an alternate exchange would be *publicly announced* at or before 3:00 p.m. and that the announcement would be made through the SIP feed in addition to any other forms of communication.<sup>29</sup> According to the commenter, if a determination is made at 3:00 p.m., then the time between 3:00 p.m. and when member firms actually receive notice of the designation would cut into the time needed to re-direct closing interest to the designated alternate exchange.<sup>30</sup> NYSE agreed with the commenter's

suggestion that it should publicly announce the designation of an alternate exchange.<sup>31</sup> As a result, each Exchange amended its proposal to specify that any designation of an alternate exchange will be publicly announced at or before 3:00 p.m.<sup>32</sup>

Second, the commenter suggests that, if NYSE determines not to carry out its own closing transaction, it should expressly assume responsibility for the cancellation of all closing interest that NYSE has already received.<sup>33</sup> According to the commenter, this would allow market participants to treat their closing interest as canceled even if they have not received an official notification of the cancellation.<sup>34</sup> The commenter also suggests that NYSE's rules should state that the official closing transaction will be canceled once NYSE determines that it is unable to conduct its own closing transaction, so as to avoid uncertainty regarding whether NYSE might change course if it determines before 4:00 p.m. that it can, in fact, conduct its own closing transaction.<sup>35</sup> NYSE agreed with the commenter's suggestion that it provide members with certainty that their open interest will not be executed if NYSE determines to employ the closing contingency procedures. As a result, each Exchange has amended its proposal to expressly state that it would cancel all open interest designated for the Exchange close if it determines to employ the closing contingency procedures.<sup>36</sup> The Commission also notes that, under the proposals, once an Exchange publicly announces that it will employ the closing contingency procedures, it will not revert to its ordinary closing procedures, and the Official Closing Price would be determined according to the hierarchies discussed above.<sup>37</sup>

Third, the commenter suggests that, when using the VWAP methodology, NYSE not include any other exchange's closing transaction in the calculation.<sup>38</sup> According to the commenter, a five-minute VWAP methodology should

<sup>25</sup> See proposed Rule 123C(1)(e)(iii)(D).

<sup>26</sup> See NYSE Notice, *supra* note 3, at 12980; NYSE MKT Notice, *supra* note 3, at 12988. Each Exchange further notes that, under the proposed rule change, for purposes of NYSE Rule 440B(b) and NYSE MKT Rule 440B(b)—Equities, the Official Closing Price would continue to be determined based on Rule 123C and that, if the Exchange is impaired, the Official Closing Price as defined in proposed Rules 123C(1)(e)(ii) and (iii) would be used for purposes of determining whether a Short Sale Price Test is triggered in a security the next trading day. See NYSE Notice, *supra* note 3, at 12980; NYSE MKT Notice, *supra* note 3, at 12988. Each Exchange also proposes to specify in Rule 123C(1)(e)(i) that, for a security that has transferred its listing to the Exchange and does not have any last-sale-eligible trades on the Exchange on its first trading day, the Official Closing Price would be the prior day's closing price disseminated by the primary listing market that previously listed such security. See Amendments No. 1. In addition, for a new listing that does not have any last-sale eligible trades on an Exchange on its first trading day, the Official Closing Price would be based on a derived last sale associated with the price of that security before it begins trading. See *id.*

<sup>27</sup> See SIFMA Letter, *supra* note 4; NYSE Response Letter, *supra* note 6.

<sup>28</sup> See SIFMA Letter, *supra* note 4, at 1. The commenter also encourages NYSE and Nasdaq to continue to work with industry participants on this issue and to refine the backup mechanism as a next step. See *id.* at 3.

<sup>29</sup> See *id.* at 2–3.

<sup>30</sup> See *id.*

<sup>31</sup> The public announcement of an alternate exchange designation, however, would not be disseminated through the SIP feed.

<sup>32</sup> See NYSE Response Letter, *supra* note 6, at 1. See also Amendments No. 1.

<sup>33</sup> See SIFMA Letter, *supra* note 4, at 3. The commenter also asserts that, if NYSE executes the closing interest despite canceling the closing transaction, NYSE should be responsible under its own rules for any resulting losses to the member firms. See *id.* The Exchanges have not revised their proposals to assume this liability.

<sup>34</sup> See SIFMA Letter, *supra* note 4, at 3.

<sup>35</sup> See *id.*

<sup>36</sup> See NYSE Response Letter, *supra* note 6, at 2. See also Amendments No. 1.

<sup>37</sup> See *supra* notes 14–25 and accompanying text.

<sup>38</sup> See SIFMA Letter, *supra* note 4, at 3.

<sup>20</sup> Each Exchange states that, similar to how the Official Closing Price would be published under proposed Rule 123C(1)(e)(ii), if it determines that it is impaired after 3:00 p.m. and the Official Closing Price for a security is determined pursuant to proposed Rule 123C(1)(e)(iii), the SIP would publish the Official Closing Price for that security no differently than how the SIP publishes the Official Closing Price for an Exchange-listed security pursuant to current Rule 123C(1)(e)(i). See NYSE Notice, *supra* note 3, at 12980; NYSE MKT Notice, *supra* note 3, at 12988. Accordingly, if the Official Closing Price is determined pursuant to proposed Rule 123C(1)(e)(iii), the Exchanges note that recipients of SIP data would not have to make any changes to their systems. See NYSE Notice, *supra* note 3, at 12980; NYSE MKT Notice, *supra* note 3, at 12988. In its Amendment No. 1, each Exchange has specified that this determination would be publicly announced and that, in the event of such determination, all open interest designated for the Exchange close would be deemed canceled. See Amendment No. 1.

<sup>21</sup> See NYSE Notice, *supra* note 3, at 12979; NYSE MKT Notice, *supra* note 3, at 12988.

<sup>22</sup> See proposed Rule 123C(1)(e)(iii)(A).

<sup>23</sup> See proposed Rule 123C(1)(e)(iii)(B).

<sup>24</sup> See proposed Rule 123C(1)(e)(iii)(C).

result in a price that is largely tradable and achievable.<sup>39</sup> However, according to the commenter, if a VWAP used as the official closing price included auction prints from other exchanges' closing transactions, the ability to trade and achieve the official closing price process would be reduced.<sup>40</sup> The Exchanges have not amended the proposals to exclude closing transactions from the VWAP calculation, but have stated that they would consider whether to do so at a later date.<sup>41</sup>

#### IV. Discussion and Commission Findings

After careful review of the proposals, as modified by the respective Amendments No. 1, and of the comment letter, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>42</sup> In particular, the Commission finds that the proposed rule changes are consistent with section 6(b)(5) of the Act,<sup>43</sup> which requires, among other things, that the rules of a national securities exchange be 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.

The Commission believes that the proposed rule changes would provide transparency regarding how the Exchanges would determine the Official Closing Price in Exchange-listed securities when the Exchanges are unable to conduct a closing transaction due to a systems or technical issue. The Commission notes that the primary listing market's closing price for a security is relied upon by market participants for a variety of reasons, including, but not limited to, calculation of index values, calculation of the net asset value of mutual funds and exchange-traded products, and the price of derivatives that are based on the security. As the Exchanges note, the proposed closing contingency procedures would provide a pre-

determined, consistent solution that would result in the SIP disseminating an official closing price for securities on behalf of the listing Exchange within a reasonable time frame relative to the normal closing time; would minimize the need for industry participants to modify their processing of data from the SIP; and would provide advance notification of the initiation of a closing contingency plan to provide sufficient time for industry participants to route any closing interest to an alternate venue to participate in that venue's closing auction.<sup>44</sup> The Commission believes that each Exchange's proposal is reasonably designed to achieve these important goals and to prevent any issues that may result if the Exchange were unable to provide a closing price for its listed securities due to a systems or technical issue. For these reasons, the Commission finds that the proposed rule change is consistent with the Act.

#### V. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether each Exchange's respective Amendment No. 1 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 Numbers SR-NYSE-2016-18 and SR-NYSEMKT-2016-31 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 Numbers SR-NYSE-2016-18 and SR-NYSEMKT-2016-31. These file numbers 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 Numbers SR-NYSE-2016-18 and SR-NYSEMKT-2016-31 and should be submitted on or before July 5, 2016.

#### VI. Accelerated Approval of Proposed Rule Changes, as Modified by Their Respective Amendments No. 1

The Commission finds good cause to approve the proposed rule changes, as modified by their respective Amendments No. 1, prior to the 30th day after the date of publication of the notices of each Amendment No. 1 in the **Federal Register**. As noted above, in its respective Amendment No. 1, each Exchange amended the proposed rule text to add Rule 123C(1)(e)(iv), which provides that if the Exchange determines the Official Closing Price under Rule 123C(1)(e)(ii) or (e)(iii), the Exchange will publicly announce the manner by which it will determine the Official Closing Price and the designated alternate exchange, if applicable, and will cancel all open interest designated for the Exchange close. As noted above, the Exchanges made these amendments in response to comments received on the NYSE proposal.

In addition, in its respective Amendment No. 1, each Exchange amended its Rule 123C(1)(e)(i) to specify how it will determine the Official Closing Price for a security that has transferred its listing to the Exchange or that is a new listing and does not have any last-sale-eligible trades on the Exchange on its first day of trading on the Exchange. Specifically, for a security that has transferred its listing to the Exchange and does not have any last-sale-eligible trades on the Exchange on its first trading day, the Official Closing Price would be the prior day's closing price disseminated by the

<sup>39</sup> See *id.*

<sup>40</sup> See *id.*

<sup>41</sup> See NYSE Response Letter, *supra* note 6, at 2.

<sup>42</sup> In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>43</sup> 15 U.S.C. 78f(b)(5).

<sup>44</sup> See NYSE Notice, *supra* note 3, at 12978, 12980; NYSE MKT Notice, *supra* note 3, at 12986, 12988-89.

primary listing market that previously listed that security.<sup>45</sup> For a new listing that does not have any last-sale eligible trades on the Exchange on its first trading day, the Official Closing Price would be based on a derived last sale associated with the price of such security before it begins trading.<sup>46</sup> Each Exchange states that its Amendment No. 1 is intended to provide increased transparency in the Exchange's rules as to how the Exchange would determine the Official Closing Price for such new or transferred listings.<sup>47</sup>

Because each Amendment No. 1 responded to the comments received on the original proposal, and provided additional transparency to the operation of the closing contingency procedures for transferred and newly listed securities, the Commission finds good cause for approving the proposed rule changes, as modified by the respective Amendments No. 1, on an accelerated basis, pursuant to section 19(b)(2) of the Act.<sup>48</sup>

## VII. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>49</sup> that the proposed rule changes (SR-NYSE-2016-18 and SR-NYSE-MKT-2016-31), as modified by their respective Amendments No. 1, be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>50</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-13964 Filed 6-13-16; 8:45 am]

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## 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 16, 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. 552b(c)(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.

Chair White, 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;

Opinion; 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.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016-14080 Filed 6-10-16; 11:15 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78023; File No. SR-MIAX-2016-14]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Exchange Rule 519C, Mass Cancellation of Trading Interest

June 8, 2016.

Pursuant to the provisions of 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 May 27, 2016, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III 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 the Substance of the Proposed Rule Change

The Exchange is filing a proposal to adopt Exchange Rule 519C, Mass Cancellation of Trading Interest.

The text of the proposed rule change is available on the Exchange's Web site at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Exchange proposes to adopt new Rule 519C, Mass Cancellation of Trading Interest, to codify the Exchange's current practice of cancelling quotes and/or orders upon the receipt of a verbal or an electronic request from a Member.<sup>3</sup>

Proposed Rule 519C would codify the current process by which Members may call or send an electronic message to the Exchange's designated staff and to direct them to cancel all quotations and/or orders they have in the System.<sup>4</sup> All of the directing Member's quotations then in the System will be cancelled; a Member may submit a request to cancel all or any subset of its orders in the System.

Currently, Exchange Members may cancel all quotations and/or open orders in the System electronically or, in the alternative, may request Exchange staff to do so verbally by phone or via electronic message. The proposed rule would codify the current process of

<sup>3</sup> The term "Member" means an individual or organization approved to exercise trading rights associated with a Trading Permit. Members are deemed "members" under the Act. See Exchange Rule 100.

<sup>4</sup> The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

<sup>45</sup> See Amendments No. 1.

<sup>46</sup> See *id.*

<sup>47</sup> See *id.*

<sup>48</sup> 15 U.S.C. 78s(b)(2).

<sup>49</sup> 15 U.S.C. 78s(b)(2).

<sup>50</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.