

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77014; File No. SR-NYSEMKT-2016-16]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Certain of Its Rules Related to Binary Return Derivatives Contracts

February 2, 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 January 27, 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 certain of its rules related to Binary Return Derivatives contracts. 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 is proposing to amend certain of its rules related to Binary

Return Derivatives contracts (“ByRDs”), which the Exchange introduced in 2007.<sup>4</sup>

First, the Exchange proposes to add Rule 953ByRDs to make clear that the Exchange would halt or suspend trading for a ByRDs contract to the same extent that it halts or suspends trading under Rule 953NY in an option contract on the same underlying security.<sup>5</sup> The current ByRDs rules are silent regarding the treatment of ByRDs during trading halts and suspensions of options contracts. The Exchange therefore believes that the proposed change would add clarity and transparency to Exchange rules and would ensure consistent treatment of ByRDs contracts in the event of a halt or suspension of trading in options contracts on the same underlying security.

Next, the Exchange proposes to modify Rule 903ByRDs(b) (Series of ByRDs Open for Trading), which currently provides that “[n]ew expiration week series will be added for trading on Thursday each week, unless Friday is an Exchange holiday in which case new expiration series would be added for trading on Wednesday.”<sup>6</sup> The Exchange proposes to revise this rule to include instances when an Exchange holiday falls on a Thursday. Specifically, as revised, new series would be added for trading “on Thursday each week, unless Thursday or Friday is an Exchange holiday in which case new expiration series would be added for trading on Wednesday.”<sup>7</sup> The Exchange notes that this proposed change would allow the Exchange to add new series during Thanksgiving

week or anytime Christmas or New Year’s falls on a Thursday, which increased flexibility would benefit market participants.

The Exchange also proposes to amend Rule 975NY (Nullification and Adjustment of Options Transactions including Obvious Errors) regarding the treatment of ByRDs in the event of a catastrophic error. Current Rule 975NY(d)(3)(A) provides that “[u]pon proper notification as described in section (d)(2) of this Rule, any transaction in ByRDs, qualifying as a Catastrophic Error will automatically be adjusted by the Exchange to \$1.02 per contract unless both parties mutually agree to nullify the transaction or both parties mutually agree to a different adjustment price. However, the Exchange proposes to modify this rule to clarify that any transactions in ByRDs qualifying as a Catastrophic Error “that is higher or lower than the Theoretical Price by \$.50 or more shall be deemed a Catastrophic Error, subject to the adjustment procedures of paragraph (d)(3) unless such adjustment would result in a price higher than \$1.02, in which case the adjustment price shall be \$1.02.”<sup>8</sup> Thus, as proposed, the transaction would only be adjusted to \$1.02 if the adjustment would result in a price greater than \$1.02. As ByRDs will either pay \$0 or \$100 at expiration, a single ByRDs contract should not have a value greater than \$1.00, therefore the Exchange believes that any adjustment under the provisions of the Catastrophic Error rule should be capped at a price no higher than \$1.02. Capping the adjustment price at \$1.02 for Catastrophic Errors involving ByRDs options is consistent with the adjustment process for obvious errors involving ByRDs option, which are also capped at \$1.02.<sup>9</sup> Similarly, to ensure consistency in Exchange rules, the Exchange propose to strike from the definition of Catastrophic Error rules, the clause that states “except for Binary Return Derivatives where any transaction occurring at a price greater than \$1.02 shall qualify as a Catastrophic Error.”<sup>10</sup> The change to paragraph (d)(1) of the Rule would allow transactions in ByRDs to be subject to standard Catastrophic Error rules (*i.e.*, transactions that are higher or lower than the Theoretical Price by \$.50 or more shall be deemed a Catastrophic Error). The Exchange notes that, to date, no ByRDs transactions have been deemed Catastrophic Errors and the Exchange did not adjust any ByRDs

<sup>4</sup> See Securities Exchange Act Release No. 56251 (August 14, 2007), 72 FR 46523 (August 20, 2007) (SR-Amex-2004-27) (Order approving listing of Fixed Return Options (“FROs”)); *see also* Securities Exchange Act Release No. 71957 (April 16, 2014), 79 FR 22563 (April 22, 2014) (SR-NYSEMKT-2014-06) (Order approving name change from FROs to Binary Return Derivatives (ByRDs) and re-launch of these products, with certain modification, and amending Obvious Errors rules to include ByRDs). ByRDs are European-style option contracts on individual stocks, exchange-traded funds (“ETFs”) and Index-Linked Securities that have a fixed return in cash based on a set strike price; satisfy specified listing criteria; and may only be exercised at expiration pursuant to the Rules of the Options Clearing Corporation (the “OCC”).

<sup>5</sup> See proposed Rule 953ByRDs (Trading Halts and Suspensions of Binary Return Derivatives).

<sup>6</sup> See Rule 903ByRDs(b).

<sup>7</sup> See proposed Rule 903ByRDs (b) (“Consecutive Week Expiration Series: The Exchange will list Binary Return Derivatives having five (5) consecutive weekly expiration series available at one time. Each expiration series will expire at the end of the week, normally a Friday, with consecutive week expirations covering the next five (5) calendar weeks. New expiration week series will be added for trading on Thursday each week, unless Thursday or Friday is an Exchange holiday in which case new expiration series would be added for trading on Wednesday”).

<sup>8</sup> See proposed Rule 975NY(d)(3)(A).

<sup>9</sup> See Rule 975NY(c)(6).

<sup>10</sup> See proposed Rule 975NY(d)(1).

<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.

transaction per current Rule 975NY(d)(3)(A). The proposed change would ensure that ByRDs trades that are deemed Catastrophic Errors are appropriately adjusted.<sup>11</sup>

Finally, the Exchange proposes to delete extraneous text from Rule 462(d)(10)(A), regarding margin accounts, such that the revised text would provide that “[e]xcept as provided below, no ByRDs option carried long in a customer’s account shall be considered of any value for the purpose of computing the margin required in the account of such customer.”<sup>12</sup> The Exchange believes the proposed change would correct an existing typographical error in Exchange rules.

#### Implementation

The Exchange proposes to announce the implementation of the proposed rule change via Trader Update.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>13</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b)(5),<sup>14</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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Specifically, the proposed change to Rule 903ByRDs(b) to cover instances when an Exchange holiday falls on a Thursday would allow the Exchange to add new series during Thanksgiving week or anytime Christmas or New Year’s falls on a Thursday, which increased flexibility would remove impediments to, and perfect the mechanism of, a free and open market and a national market system to the benefit of market participants.

In addition, the Exchange believes that the proposed rule to make clear that ByRDs would be treated the same as other options contracts, in the event of a trading halt or suspension, would remove impediments to, and perfect the mechanisms of, a free and open market

because it would add clarity and transparency to Exchange rules. Moreover, this proposed change would ensure consistent treatment of ByRDs contracts in the event of a halt or suspension of trading in options contracts on the same underlying security.

The proposed change to Rule 975NY(d)(3)(A), regarding the treatment of ByRDs transactions deemed Catastrophic Errors is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, as the proposed change would ensure that ByRDs trades that are deemed Catastrophic Errors are appropriately adjusted.

Finally, the proposed change to remove incorrect and extraneous rule text from Rule 462(d)(10)(A) adds clarity and transparency to Exchange rules and reduces potential investor confusion, which would remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to add clarity and transparency to Exchange rules, thereby reducing confusion and making the Exchange’s rules easier to understand and navigate. The Exchange believes that the proposed rule change will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

#### 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 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) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<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 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 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-2016-16 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-NYSEMKT-2016-16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

<sup>11</sup> The Exchange notes that ByRDs contracts were outside of the scope of the industry wide effort to harmonize Obvious and Catastrophic Error rules, and the proposed change therefore does not impact the harmonization effort. See Securities Exchange Act Release No. 74920 (May 8, 2015), 80 FR 27816, 27822 (May 14, 2015) (SR-NYSEMKT-2015-39).

<sup>12</sup> See proposed Rule 462(d)(10)(A) (striking the extraneous words “is or a customer”).

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

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

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-2016-16, and should be submitted on or before February 29, 2016.

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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**BILLING CODE 8011-01-P**

## **SOCIAL SECURITY ADMINISTRATION**

[Docket No: SSA-2016-0002]

### **Agency Information Collection Activities: Proposed Request and Comment Request**

The Social Security Administration (SSA) publishes a list of information

collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers. (OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202-395-6974, Email address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov).

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-966-2830, Email address:

[OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov).

Or you may submit your comments online through [www.regulations.gov](http://www.regulations.gov), referencing Docket ID Number [SSA-2016-0002].

I. The information collections below are pending at SSA. SSA will submit

them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than April 8, 2016. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Statement for Determining Continuing Eligibility, Supplemental Security Income Payment(s)—20 CFR 416.204—0960-0416. SSA conducts disability redeterminations to determine if Supplemental Security Income (SSI) recipients (1) met and continue to meet all statutory and regulatory requirements for SSI eligibility and (2) are receiving the correct SSI payment amount. SSA makes these redeterminations through periodic use of Form SSA-8203BK. SSA conducts this legally mandated information collection in field offices via personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The respondents are SSI recipients or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
MSSICS .....	801,789	1	20	267,263
MSSICS/Signature Proxy .....	666,431	1	19	211,036
Paper .....	135,357	1	20	45,119
Totals .....	1,603,577	.....	.....	523,418

2. Information About Joint Checking/Savings Account—20 CFR 416.1201 and 416.1208—0960-0461. SSA considers a person's resources when evaluating eligibility for SSI. Generally, we consider funds in checking and savings accounts as resources owned by the individuals whose names appear on the account. However, individuals applying for SSI may rebut this assumption of ownership in a joint account by

submitting certain evidence to establish the funds do not belong to them. SSA uses Form SSA-2574 to collect information from SSI applicants and recipients who object to the assumption that they own all or part of the funds in a joint checking or savings account bearing their names. SSA collects information about the account from both the SSI applicant or recipient and the other account holder(s). After receiving

the completed form, SSA determines if we should consider the account to be a resource for the SSI applicant and recipient. The respondents are applicants and recipients of SSI, and individuals who list themselves as joint owners of financial accounts with SSI applicants or recipients.

Type of Request: Revision of an OMB-approved information collection.

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