For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68193; File No. SR–NYSEMKT–2012–53]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary to Exchange Rule 903 Regarding Strike Price Intervals for Classes in the Short Term Option Series Program

November 8, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 26, 2012, 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 substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .10 to Exchange Rule 903 to allow the Exchange to provide: (i) That the strike price interval for classes in the Short Term Option Series ("STOS") Program that normally trade in $1 Strike Price Intervals shall be $0.50 or greater; and for classes in the STOS Program that do not normally trade in $1 Strike Price Intervals, the strike price interval shall be $0.50 or greater strike price intervals [sic] where the strike price is less than $75 and $1.00 or greater strike price intervals [sic] where the strike price is between $75 and $150; and (ii) that the strike price intervals for the Related non-STOS options shall be the same as the strike price intervals for STOS from the Thursday prior to expiration week of an option class that is selected for the STOS Program. The Exchange also proposes to amend Commentary .05 and .10 to provide that strike price intervals for the Related non-STOS options shall be the same as the strike price intervals for STOS starting the Thursday prior to the expiration week of an option class that is selected for the STOS Program. In addition, the Exchange proposes to delete Commentary .08 to Exchange Rule 903. The text of the proposed rule change is available on the Exchange's Web site at *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 proposes to amend Commentary .10 to Exchange Rule 903 to provide that the Exchange may open for trading Short Term Option Series ("STOS")[4] at $0.50 or greater strike price intervals if the class normally trades in $1 strike price intervals. If the class normally trades in a greater interval, the Exchange may open STOS at a strike price interval of $0.50 where the strike price is less than $75, $1.00 or greater strike price intervals [sic] where the strike price is between $75 and $150, and strike price intervals the same as strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle [sic]. The Exchange also proposes that the strike price intervals for the Related non-STOS options[5] shall be the same as the strike price intervals for STOS starting the Thursday prior to the expiration week of an option class that is selected for the STOS Program. In addition, the Exchange proposes to delete Commentary .08 to Exchange Rule 903 because it is duplicative of subsection (d) to Commentary .10.

This is a competitive filing that is based on two recently approved filings submitted by the International Securities Exchange, LLC ("ISE") and NASDAQ OMX PHLX, LLC ("Phlx").[6] The ISE and Phlx filings both made changes to the strike price interval setting parameter rules for their respective STOS Programs. Weekly options are not listed to expire during the same week as non-Weekly options. As a result, both ISE and Phlx amended their rules to permit non-Weekly options to have the same strike price interval setting parameters for Weekly options during the week that non-Weekly options expire.

ISE and Phlx also both amended the strike price interval setting parameters for their STOS Programs, but the revisions to their respective rules differ. Specifically, ISE permits $0.50 strike price intervals for Weekly options for option classes that trade in one dollar increments and are in the STOS Program.[7] Phlx permits $0.50 strike price intervals when the strike price is below $75, and $1 strike price intervals when the strike price is between $75 and $150. Phlx also provides that related non-Weekly option series may be opened during the week prior to expiration week pursuant to the same strike price interval parameters that exist for Weekly options. Thus a related non-Weekly option may be opened in Weekly option strike price intervals on a Thursday or a Friday that is a business day before the non-Weekly option expiration week.[8] If the Phlx is not open for business on the respective Thursday or Friday, however, the non-Weekly option may be opened in Weekly option

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[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Short Term Options Series ("STOS") also known as "Weekly options" or "weeklies" trade under the STOS Program. For all practical purposes, the terms STOS, Weekly options, and weeklies are interchangeable.

[5] As proposed, a non-Short Term Option that is on a class that has been selected to participate in the Short Term Option Series Program is referred to as a "Related non-Short Term Option." The Related non-STOS option will be the same option class as the STOS option but will have a longer expiration cycle (*e.g.,* a SPY monthly option as compared to a SPY weekly option).

[6] *See* Securities Exchange Act Release Nos. 67754 (August 29, 2012), 77 FR 54629 (September 5, 2012) (order approving SR–ISE–2012–33) ("ISE filing") and 67753 (August 29, 2012) 77 FR 54635 (September 5, 2012) (order approving SR–Phlx–2012–78) ("Phlx filing").

[7] The permissible $0.50 strike price intervals may only be opened on the Weekly option Opening Date that expire on the Weekly option Expiration date and no additional series, including additional series of the related non-Weekly option, may be opened during expiration week in classes that are listed pursuant to the newly amended ISE rules.

[8] This opening timing is consistent with the principle that the Exchange may add new series of options until five business days prior to expiration. *See* Rule 903, Commentary .04.

intervals on the first business day immediately prior to that respective Thursday or Friday.[9] Chicago Board Options Exchange, Incorporated (''CBOE'') highlighted the differences between the two filings during the notice and comment period and submitted a comment letter on that subject.[10]

The Exchange is proposing to adopt strike price interval setting parameters that are currently in effect for both ISE and Phlx in order to remain competitive. The Exchange notes that while it believes that there is substantial overlap between the two strike price interval setting parameters, the Exchange believes there are gaps that would enable Phlx to initiate a series that ISE would not be able to initiate and vice versa.[11] Since uniformity is not required for the STOS Programs that have been adopted by the various options exchanges, the Exchange proposes to revise its strike price intervals setting parameters so that it has the ability to initiate strike prices in the same manner (*i.e.,* intervals) as both ISE and Phlx. Accordingly, the Exchange proposes to adopt aspects of both the ISE rule text language and the Phlx rule text language that the SEC recently approved.

The STOS Program is codified in Commentary .08 and .10 to Exchange Rule 903.[12] The Rules state that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than five option classes that expire on the Friday of the following business week that is a business day. In addition to the five-option class limitation, there is also a limitation that no more than twenty series for each expiration date in those classes may be initially opened for trading.[13] Furthermore, the strike price of each STOS has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the short term options are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. The Exchange does not propose any changes to the current program limitations. The Exchange proposes only to specify that STOS can have interval prices of $0.50 and $1, as proposed under Commentary .10 to Exchange Rule 903.[14]

The principal reason for the proposed interval pricing structure is market demand for weekly options. There is continuing strong customer demand for having the ability to execute hedging and trading strategies effectively via STOS, particularly in the current fast, multi-faceted trading and investing environment that extends across numerous markets and platforms.[15] The Exchange has observed increased demand for STOS classes and/or series, particularly when market moving events such as significant market volatility, corporate events, or large market, sector, or individual issue price swings have occurred. The STOS Program is one of the most popular and quickly expanding options expiration programs.

In the two years since the application of the STOS Program to multiply listed issues, it has steadily expanded to the point that as of August 31, 2012, STOS represent 6.72% of the total options volume on the Exchange and 12.6% of the total options volume in the United States.[16] The STOS volumes become even more significant when the volumes of an STOS class are compared to the volumes of the Related non-STOS options class. As an example, through the first eight months of 2012, on the Exchange there were 3,878,385 contracts of SPY STOS traded and 46,640,772 contracts of SPY monthly options traded; and 1,456,154 contracts of AAPL STOS traded and 17,808,928 contracts of AAPL monthly options traded. From the 4th quarter of 2010 to the 4th quarter of 2011, STOS volume expanded more than 90%,[17] and the Exchange believes that STOS volumes will continue to expand in 2012. The Exchange believes that, as such, while STOS are currently one of most popular (high volume) expiration lengths of options traded on the Exchange and other options exchanges, STOS will only become more popular as market participants continue to gain knowledge about more effective uses of these products for trading and hedging purposes.

Moreover, the Commission has approved the use of $0.50 and $1 strike price intervals on the Exchange as well as in the options industry, particularly at lower price levels (*e.g.,* below $150). Numerous options products are listed (trade) on the Exchange at $0.50 and $1 strike price intervals. For example, there are two individual ETF options listed on the Exchange with $0.50 strike price intervals. There are approximately 50 options listed on the Exchange at $0.50 strike price intervals pursuant to the

[9] On the Exchange, the STOS opening process is set forth in NYSE MKT Rule 903(h): After an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire on the Friday of the following business week that is a business day (''Short Term Option Expiration Date''). If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on the Friday of the following business week, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

[10] A copy of CBOE's comment letter may be accessed at: *http://sec.gov/comments/sr-phlx-2012–78/phlx201278–1.pdf.* For example, in the comment letter CBOE noted its belief that the Phlx strike price interval setting parameters were broader since they applied to all classes that participate in the Weekly Program where the ISE proposal provided increased granularity only to those classes in which $1 strike price intervals are currently permitted.

[11] The Exchange is making a distinction between initiating series and cloning series. The Exchange and the majority, if not all, of the other options exchanges that have adopted a STOS Program have a similar rule that permits the listing of series that are opened by other exchanges. *See* Rule 903A(b)(vi). This filing is concerned with the ability to initiate series. For example, if a class is selected to participate in the STOS Program and non-STOS options on that class do not trade in dollar increments, the Exchange believes that Phlx would be permitted to initiate $0.50 strikes on that class and ISE would not. Similarly, the strike price interval for exchange-traded fund (''ETF'') options is generally $1 or greater where the strike price is $200 or less. If, an ETF class is selected to participate in the STOS Program, the Exchange believes that ISE would be permitted to initiate $0.50 strike price intervals where the strike price is between $151 and $200, but Phlx would not be.

[12] On July 12, 2005, the Commission approved the STOS Program on a pilot basis. *See* Securities Exchange Act Release No. 52014 (July 12, 2005), 70 FR 41244 (July 18, 2005) (Amex–2005–035). The STOS Program was made permanent on June 23, 2010. *See* Securities Exchange Act Release No.62370 (June 23, 2010), 75 FR 37870 (June 30, 2010) (SR–NYSEAmex–2010–62).

[13] However, if the Exchange opens twenty (20) short term options for a Short Term Option Expiration Date, up to 10 additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current price of the underlying security. The Exchange may also open additional strike prices of STOS that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers (market-makers trading for their own account shall not be considered when determining customer interest under this provision).

[14] As of August 31, 2012, there are 159 option classes across all options exchanges that have STOS options expiring on September 7, 2012.

[15] These include, without limitation, options, equities, futures, derivatives, indexes, exchange traded funds, exchange traded notes, currencies, and over-the-counter instruments.

[16] The Exchange notes that, in fact, the volume increase in STOs since their inception just over two years ago greatly exceeds the volume increase of any other length option (*e.g.,* monthly, quarterly, or long term) over the same equivalent time period.

[17] During the same time period, monthly options volume decreased by 8%.

$0.50 Strike Program. There are 820 options listed on the Exchange with $1 strike price intervals. Moreover, the Commission has recently approved certain products to trade at $0.50 and $1 strike price intervals on CBOE within exactly the same strike price points that are proposed by the Exchange in this filing, namely $75 and $150.[18]

The Exchange believes that the benefits of the ability to trade STOS at $0.50 and $1 intervals at lower price levels cannot be underestimated. The proposed intervals would clearly allow traders and investors, and in particular public (retail) investors to more effectively and with greater precision consummate trading and hedging strategies on the Exchange. The Exchange believes that this precision is increasingly necessary, and in fact crucial, as traders and investors engage in trading and hedging strategies across various investment platforms (*e.g.,* equity and ETF, index, derivatives, futures, foreign currency, and even commodities products); particularly when many of these platforms enjoy substantially smaller strike price differentiations (*e.g.,* as low as $.05).[19]

Weekly options have characteristics that are attractive for certain trading and hedging strategies. Thus, weeklies may be attractive for retail trading strategies that could benefit from the inherent accelerated time decay of weekly options, such as selling (buying) vertical or calendar spreads. And weeklies may be particularly attractive instruments for short-term institutional hedging needs (*e.g.,* sudden price movements against large option positions during expiration week; maintenance or adjustment of complex option positions) as well as for retail hedging needs (*e.g.,* preceding large earnings plays). In every case, trading and hedging is more effective when it can be closely tailored. The current wider STOS price intervals have negatively impacted investors and traders, particularly retail public customers, who have on several occasions requested the Exchange for finer, narrower STOS intervals. The proposal would fix this.

The following is an example of how inadequately narrow STOS intervals negatively impact trading and hedging opportunities. If an investor needs to purchase an STOS call option in CSCO (03/26/12 closing price $20.84), the current $1 strike interval would offer less opportunity and choice for an investor seeking to keep cash expenditures low. For example, an investor wishing to buy an in-the-money call option for less than a $2.50 investment per call purchase has only two strike prices that meet his criteria from which to choose: the 19 strike and the 20 strike. Such call options with five days until expiration might offer ''ask prices'' (option premiums) of $1.75 and $.75. However, if CSCO had $0.50 strike prices as proposed, the same investor would have a selection of March 18.50, 19.00, 19.50, 20.00, and the 20.50 strike call options that may have options premiums from approximately $2.25 down to approximately $.25. This expanded range of strikes, and commensurate option premiums, offers far more choice and a considerably lower cost of entry to the investor, thereby garnering the investor more than a 66% options premium savings. Lower intervals increase effective liquidity by offering investors and traders more price points at which they may execute trading and hedging strategies.[20] This allows investors and traders the ability to more effectively execute their strategies at lower cost. Clearly, more efficient pricing is advantageous to all market participants, from retail to institutional investors. The changes proposed by the Exchange should allow execution of more trading and hedging strategies on the Exchange. The Exchange notes that in conformance with Exchange Rules, the Exchange shall not list $0.50 or $1 strike price intervals on Related non-STOS options within five (5) days of expiration. For example, if a Related non-STOS in an options class is set to expire on Friday, September 21, the Exchange could begin to trade $0.50 strike price intervals surrounding that Related non-STOS on Thursday, September 13, but no later than Friday September 14.

The Exchange proposes to list the expiring Related non-STOS on the Thursday or Friday prior to expiration week, so that investors can close a position in an expiring STOS and open a position at the same strike price in a Related non-STOS. The listing of the $0.50 or $1 strike price intervals for expiring Related non-STOS on the Thursday or Friday prior to expiration week is intended to be consistent with the ''overlap'' of STOS today, which facilitates investors' desire to ''roll'' a position from one STOS expiration to another. If the $0.50 or $1 interval strikes are not available until the opening on Monday of expiration week, an investor who had a position in the prior week's $0.50 or $1 interval STOS could not close a position in the expiring STOS and open a position at the same strike in the Related non-STOS.

Furthermore, the inadequate price intervals for STOS, particularly at the lower price levels proposed by the Exchange, may discourage retail and other customers from executing STOS orders when they could be the most advantageous for effective execution of trading and hedging strategies on regulated and transparent exchanges. The Exchange feels that it is essential that such negative, potentially costly and time-consuming impacts on retail investors are eliminated by offering tighter intervals within the STOS Program. The changes proposed by the Exchange should allow execution of more trading and hedging strategies on the Exchange.[21]

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the potential additional traffic associated with trading in the Program at $.50 or $1 intervals, as applicable under the proposal. The Exchange notes that this proposal would not increase the number of listed STOS, but only the interval between them. The Exchange believes that its OTP Holders and OTP Firms will not have a capacity issue as a result of this proposal.

[18] *See* Securities Exchange Act Release No. 64189 (April 5, 2011), 76 FR 20066 (April 11, 2011) (SR–CBOE–2011–008) (order granting approval of $0.50 and $1 strike price intervals for certain volatility options where the strike prices are less than $75 and between $75 and $150, respectively). In approving the CBOE proposal, the Commission stated that the proposal appears to strike a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes and market fragmentation. The Exchange notes that other options exchanges including NYSE Arca, ISE, NOM, and Phlx, have made similar rule changes.

[19] As an example, per the CME Web site, strike prices for options on futures may be at an interval of $.05, $.10, and $.25 per specified parameters. *See http://www.cmegroup.com/trading/equityindex/files/EQUITY_FLEX_Options.pdf* (options on S&P 500 and NASDAQ–100 contracts) and *http://www.cmegroup.com/rulebook/files/S_5734_x11-0518x_Change_in_Listing_Rules_for_Goldx_Silverx_Copper_Options.pdf* (options on metals contracts).

[20] Moreover, lower strike intervals provide additional price points for liquidity providers. This allows the liquidity providers to improve theoretical pricing as well as hedging capabilities, thereby enabling them to increase the size and quality of their markets.

[21] In addition, there is a competitive impact. First, the proposal would enable the Exchange to provide market participants with an opportunity to execute their strategies (*e.g.,* complex option spreads) wholly on their preferred market, namely the Exchange. Second, the proposal would diminish the potential for foregone market opportunities on the Exchange caused by the need to use a more advantageous (that is, interval-precise) platform than STOs currently allow.

The Exchange also proposes that Related non-STOS shall be opened on the Thursday or Friday prior to the expiration week that such Related non-STOS expire in the same manner as permitted in Rule 903(h) and in the same strike price intervals for the STOS permitted in this [sic] Rule 903, subsection (d) of Commentary .10. The Exchange proposes to make this change to ensure conformity between STOS options and Related non-STOS options that are in the same options class (*e.g.,* weekly and monthly SPY options). The Exchange believes that not having such a conforming change would be counter-productive and not beneficial for trading and hedging purposes.[22]

The Exchange believes that the STOS Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. Furthermore, the Exchange has had to reject trading requests because of the limitations imposed by the Program. For these reasons, the Exchange requests a modification of the strike price intervals in the Program and the opportunity to provide investors with better weekly option choices for investment, trading, and risk management purposes.

In addition, the Exchange proposes to delete Commentary .08 to Exchange Rule 903 because it is duplicative of subsection (d) to Commentary .10.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[23] in general, and furthers the objectives of Section 6(b)(5),[24] in particular, in that it is 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that providing strike prices of $.50 and $1 intervals in STOS eligible classes will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in a greater number of securities. The Exchange also believes that providing the same strike price intervals for options classes that are in the STOS Program and for the Related non-STOS options just prior to and during expiration week will provide the investing public and other market participants with additional opportunities to hedge their investment, thus allowing these investors to better manage their risk exposure. In addition, the Exchange believes that the proposal will ensure conformity between STOS options and Related non-STOS options that are in the same options class. The Exchange believes that allowing the listing of expiring Related non-STOS on the Thursday or Friday prior to expiration week will help facilitate the ability of investors and other market participants to close a position in an expiring STOS and open a position at the same strike price in a Related non-STOS is a manner that is designed to promote just and equitable principles of trade. While the expansion of the STOS Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal remains limited to a fixed number of classes.

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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to existing ISE and PHLX rules. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges with respect to their short term options programs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[25] and Rule 19b–4(f)(6) thereunder.[26]

The Exchange asked the Commission to waive the 30-day operative delay period for non-controversial proposed rule changes to allow the proposed rule change to be operative upon filing.[27] The Commission believes it is consistent with the public interest to waive the 30-day operative delay. The proposed rule change is substantially similar in all material respects to existing ISE and PHLX rules, which permit the listing of Short Term Options Series at finer strike price intervals; the proposal presents no novel issues.[28] Waiver of the operative delay will allow the Exchange to expand its STOS Program to the current parameters of those SROs and compete without undue delay. Therefore, the Commission grants such waiver and designates the proposal operative upon filing.[29]

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.

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:

[22] Moreover, the Exchange notes that STOS options are not listed and traded during the expiration week of the Related non-STOS options. During this week, the non-STOS options are materially and financially equivalent to the STOS options. The proposed change would allow traders and hedgers to have the noted benefits of the STOS Program during each week in a month.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6).

[27] 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, or such shorter time as designated by the Commission.

[28] *See* ISE Filing and Phlx Filing, *supra* note 6.

[29] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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.* Please include File Number SR–NYSEMKT–2012–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2012–53. 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 Section, 100 F Street NE., Washington, DC 20549, on official business days between 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2012–53 and should be submitted on or before December 6, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Kevin M. O'Neill,

Deputy Secretary.

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[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68192; File No. SR–FINRA–2012–048]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Repeal the Changes Described in SR–FINRA–2011–019

November 8, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2012, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to repeal the changes described in SR–FINRA–2011–019, which proposed to rename FINRA's inter-dealer quotation system.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

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

1. Purpose

On April 25, 2011, FINRA filed a proposed rule change to replace references to ''OTC Bulletin Board'' and ''OTCBB'' with ''Non-NMS Quotation Service'' and ''NNQS,'' respectively, in the FINRA Rulebook.[4] As described in the Original Filing, the purpose of renaming FINRA's inter-dealer quotation system was to remove certain impediments to the completion of a transaction whereby FINRA would divest itself of the OTCBB trademark, related domain name, and all informational content from the *www.OTCBB.com* Web site that was not otherwise required to be retained by FINRA for regulatory purposes (''OTCBB assets''). FINRA no longer is proceeding with the sale of the OTCBB assets as described in SR–FINRA–2011–019, making the renaming changes unnecessary. Therefore, FINRA is filing this proposed rule change to delete the pending references to ''Non-NMS Quotation Service'' and ''NNQS'' and retain ''OTC Bulletin Board'' and ''OTCBB.''[5] The FINRA Rule 6500 Series will continue to govern the operation of the OTCBB and the functionality of the OTCBB is not proposed to be changed in this filing.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change will be December 3, 2012.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in

[4] *See* Securities Exchange Act Release No. 64397 (May 4, 2011); 76 FR 27123 (May 10, 2011) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2011–019) (''SR–FINRA–2011–019'' or ''Original Filing'').

[5] In the Original Filing, FINRA stated that the implementation date of the proposed rule change would be no later than 270 days following the date of filing, but in no event would be sooner than 120 days following the date of filing of the proposed rule change. On January 20, 2012, FINRA extended the implementation date to no sooner than 120 days following the date of filing, but no later than December 31, 2012. *See* Securities Exchange Act Release No. 66244 (January 26, 2012); 77 FR 5069 (February 1, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2012–003) (Proposed Rule Change to Delay the Implementation Date of SR–FINRA–2011–019).

[6] 15 U.S.C. 78*o*–3(b)(6).