

trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest. More specifically, the Exchange believes that the proposed rule change supports the objective of the Act by providing greater harmonization between CHX Rules and rules of similar purpose of other self-regulatory organizations, such as FINRA, resulting in less burdensome and more efficient regulatory compliance. In particular, CHX Participants that are also FINRA members are subject to both CHX Article 8, Rule 13 and FINRA Rule 3230; CHX believes that harmonizing these two rules would promote just and equitable principles of trade by requiring a single standard for telemarketing. In addition, CHX believes that adopting the amendments to CHX Article 8, Rule 13 will assure that the Exchange's rules governing telemarketing meet the standards set forth in the Prevention Act. To the extent the Exchange has proposed changes that differ from the FINRA version of the CHX Rules, the Exchange believes that such changes are technical in nature and do not change the substance of the proposed CHX Rules. The Exchange also believes that the proposed rule change will update and clarify the requirements governing telemarketing, which will promote just and equitable principles of trade and help to protect investors.

#### *B. Self-Regulatory Organization's Statement of 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.

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

CHX neither solicited nor received written comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>56</sup> and Rule 19b-4(f)(6)<sup>57</sup> thereunder in that it effects a change that: (i) Does not significantly affect the protection of investors or the public

interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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.

#### *Solicitation of Comments*

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-CHX-2012-14 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 No. SR-CHX-2012-14. 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 changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such

filing will also 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 No. SR-CHX-2012-14 and should be submitted on or before January 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>58</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68460; File No. SR-NYSEMKT-2012-41]

### **Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of Proposed Rule Change To Amend Commentary .04 to NYSE Amex Options Rule 903 To Permit the Exchange to List Additional Strike Prices Until the Close of Trading on the Second Business Day Prior to Monthly Expiration**

December 18, 2012.

#### **I. Introduction**

On September 6, 2012, NYSE MKT LLC ("NYSE MKT" or "Exchange") 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 Commentary .04 to NYSE Amex Options Rule 903 to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration in unusual market conditions. The proposed rule change was published for comment in the **Federal Register** on September 20, 2012.<sup>3</sup> On November 1, 2012, the Commission designated a longer period to act on the proposed rule change, until December 19, 2012.<sup>4</sup> The Commission received no comment letters on the

<sup>58</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.

<sup>3</sup> Securities Exchange Act Release No. 67862 (September 14, 2012), 77 FR 58429 ("Notice").

<sup>4</sup> Securities Exchange Act Release No. 68135, 77 FR 66896 (November 7, 2012).

<sup>56</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>57</sup> 17 CFR 240.19b-4(f)(6).

proposal. This order approves the proposed rule change.

## II. Description of the Proposal

The Exchange proposes to amend Commentary .04 to NYSE Amex Options Rule 903 to permit the Exchange to add additional strikes until the close of trading on the second business day prior to the expiration of a monthly, or standard, option in the event of unusual market conditions. NYSE Amex Options Rule 903 currently permits the Exchange to open additional series of individual stock options until the first calendar day of the month in which the option expires or until the fifth business day prior to expiration if unusual market conditions exist.<sup>5</sup> The Exchange claims that, under its current rules, if unusual market conditions occur anytime from five to two days prior to expiration, then market participants are unable to obtain a contract tailored to manage their risk.<sup>6</sup> According to the Exchange, options market participants generally prefer to focus their trading in strike prices that immediately surround the price of the underlying security.<sup>7</sup> If, however, the price of the underlying stock moves significantly, the Exchange argues that there may be a market need for additional strike prices to adequately account for market participants' risk management in a stock.<sup>8</sup> Accordingly, the Exchange proposes to permit the listing of additional strikes until the close of trading on the second business day prior to expiration of a monthly option in unusual market conditions.

The Exchange represents that the proposal does not raise any capacity concerns on the Exchange because the proposed change presents no material difference in impact from the current rules.<sup>9</sup> The Exchange notes that the proposed change allows for new strikes that it would otherwise be permitted to add under existing rules either on the fifth day prior to or immediately after expiration. The Exchange further represents that it discussed the proposed change with the Options Clearing Corporation ("OCC").<sup>10</sup> According to the Exchange, the OCC

represented that it is able to accommodate the proposal and will have no operational concerns with adding new series on any day, except the last day of trading an expiring series.<sup>11</sup> The Exchange states that, since the implementation of the fifth business day restriction on listing additional strikes, improved communications and the adoption of the Streamline Options Series Adds by OCC allows notification of new strikes in real time throughout the industry.<sup>12</sup>

## III. Discussion and Commission Findings

After careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>13</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 notes that the proposed change extends the timeframe during which the Exchange may list additional series of individual stock options in unusual market conditions. The Commission believes that the proposed change will provide the investing public and other market participants with additional opportunities to tailor their investment and hedging decisions, thus allowing investors to better manage their risk exposure with additional series.<sup>15</sup>

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that the

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

<sup>12</sup> See *id.* at 58429 n.4.

<sup>13</sup> In approving this proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>15</sup> In approving this proposal, the Commission notes that the Exchange has stated that, although the four additional days to list additional strike prices in the event of unusual market circumstances may generate additional quote traffic, the Exchange believes that any increased traffic will not become unmanageable since the proposal remains limited to the narrow situations when an unusual market event occurs. See Notice, *supra* note 3 at 58430.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-NYSEMKT-2012-41) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68472; File No. SR-MSRB-2012-08]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving a Proposed Rule Change Consisting of Amendments To Streamline New Issue Information Submission Requirements Under MSRB Rules G-32 and G-34

December 19, 2012.

#### I. Introduction

On October 23, 2012, the Municipal Securities Rulemaking Board ("MSRB") 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 consisting of amendments to Rule G-8 (books and records); Rule G-14 RTRS Procedures;<sup>3</sup> Rule G-32 (disclosures in connection with primary offerings); Rule G-34 (CUSIP numbers, new issue, and market information requirements); and the Electronic Municipal Market Access ("EMMA<sup>®</sup>") system facility, to streamline the manner in which underwriters, in connection with new issues of municipal securities, satisfy certain of their submission requirements under Rule G-32. The proposed rule change was published for comment in the *Federal Register* on November 8, 2012.<sup>4</sup> The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

#### II. Description of the Proposed Rule Change

The MSRB proposes to amend Rules G-32 and G-34 to streamline certain

<sup>17</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.

<sup>3</sup> "RTRS" refers to the Real-time Transaction Reporting System, which is an MSRB facility for collecting and disseminating information about transactions in municipal securities.

<sup>4</sup> Securities Exchange Act Release No. 68134 (November 1, 2012), 77 FR 67047 (SR-MSRB-2012-08) ("Notice").

<sup>5</sup> The Exchange may make the determination to open additional series for trading when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market. See Notice, *supra* note 3 at 58429.

<sup>6</sup> See Notice, *supra* note 3 at 58429.

<sup>7</sup> See *id.*

<sup>8</sup> See *id.*

<sup>9</sup> See *id.* at 58430. The Exchange also stated that any new strikes added under this proposal would be added in a manner consistent with the range limitations described in NYSE Amex Options Rule 903A.

<sup>10</sup> See *id.*