

minutes before the end of Regular Trading Hours. The Participants stated that the proposed change is designed to reduce confusion by correcting language in the Plan.

### III. Comment Letter

The Commission received one comment letter in favor of the Third Amendment to the Plan.<sup>23</sup> The commenter stated that the proposed changes were raised since September 2012 in discussions that the commenter had with the Participants and that it had the understanding that amendments would be filed with the Commission to address these concerns. As such, market participants have programed their systems accordingly well in advance of the April 8, 2013 implantation date of the Plan.

The commenter further stated that one of the key drivers of the Plan is the protection of retail investors.<sup>24</sup> Thus, having odd-lots incorporated at the commencement of the rule is critical. Moreover, the commenter stated that the implementation of the Plan has evolved into a very complex process and it would prefer that odd-lots not be implemented on a different schedule possibly causing investor confusion.

### IV. Discussion and Commission Findings

After careful review, the Commission finds that Third Amendment is consistent with the requirements of the Act and the rules and regulations thereunder.<sup>25</sup> Specifically, the Commission finds that the Third Amendment is consistent with Section 11A of the Act<sup>26</sup> and Rule 608 thereunder<sup>27</sup> in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanism of, a national market system.

The Third Amendment would make two changes to the Plan. The first change amends the Plan to specify that odd-lot transactions will be subject to the limitation on trades provision of Section VI.A.1. As such, the requirement that trading centers in NMS stocks establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price

Band or above the Upper Price Band for an NMS stock will apply to odd-lot transactions. The Commission notes that this change could reduce the ability of market participants to engage in odd-lot transactions to circumvent the requirements of the Plan, thereby further protecting investors. The Commission also notes that the change is widely anticipated and supported in the industry, as it would reduce compliance burdens because firms would not need to code specially for odd lots.<sup>28</sup>

The second change would reconcile an inconsistency in the current rule text of the Plan. The current language states that the price bands shall not be calculated and disseminated less than 30 minutes before the end of the trading day, and that trading shall not enter a Limit State less than 25 minutes before the end of the trading day. Under this formulation, there would be no price bands after 3:30 p.m. ET, although a stock could still enter a Limit State until 3:35 p.m. ET. This is internally inconsistent, since the price bands must be calculated and disseminated in order for the Limit State to be triggered. The Participants proposed to amend the Plan to state that no price bands shall be calculated and disseminated and, therefore, trading shall not enter a Limit State, less than 30 minutes before the end of the trading day. The Commission believes that this change provides further clarity on the operation of the limit up-limit down mechanism during Phase I of the Plan.

Therefore, the Commission believes that the Third Amendment to the Plan is consistent with Section 11A of the Act<sup>29</sup> and Rule 608 thereunder.<sup>30</sup>

### V. Conclusion

*It is therefore ordered*, pursuant to Section 11A of the Act<sup>31</sup> and Rule 608 thereunder,<sup>32</sup> that the Third Amendment to the Plan (File No. 4-631) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69296; File No. SR-NSX-2013-12]

### Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its Rule 11.24, Limit Up/Limit Down

April 4, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 3, 2013, National Stock Exchange, Inc. ("NSX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment 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 Rule 11.24(k) regarding routing of orders under the National Market System Plan established pursuant to Rule 608 of the Exchange Act, to address extraordinary market volatility (the "Regulation NMS Plan to Address Extraordinary Market Volatility" or "Plan"),<sup>3</sup> also known as Limit Up/Limit Down. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>4</sup>

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nsx.com>, at the principal office of the Exchange, on the Commission's Web site at <http://www.sec.gov>, 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

<sup>23</sup> See FIF Letter, *supra* note 5.

<sup>24</sup> *Id.*

<sup>25</sup> In approving the Third Amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>26</sup> 15 U.S.C. 78k-1.

<sup>27</sup> 17 CFR 242.608.

<sup>28</sup> See FIF Letter.

<sup>29</sup> 15 U.S.C. 78k-1.

<sup>30</sup> 17 CFR 242.608.

<sup>31</sup> 15 U.S.C. 78k-1.

<sup>32</sup> 17 CFR 242.608.

<sup>33</sup> 17 CFR 200.30-3(a)(29).

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

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

<sup>3</sup> See Appendix A to Securities Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

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

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

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.*, the "flash crash," the national securities exchanges that list and trade equity securities and the Financial Industry Regulatory Authority ("FINRA") have implemented market-wide measures that are designed to restore investor confidence in the markets by reducing the potential for excessive volatility. The measures adopted include pilot plans for stock-by-stock trading pauses<sup>5</sup> and related changes to the equities market clearly erroneous execution rules,<sup>6</sup> and more stringent equity market maker quoting requirements.<sup>7</sup> On May 31, 2012, the Commission approved the Plan, on a pilot basis.<sup>8</sup> On March 8, 2013, the Commission published the Exchange's proposed rule change to comply with the Plan, which is to become operative on April 8, 2013.<sup>9</sup>

The Plan is designed to prevent trades in NMS Stocks from occurring outside of specified Price Bands.<sup>10</sup> Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.<sup>11</sup> The Price Bands are coupled with Trading Pauses to accommodate more fundamental price moves. All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.<sup>12</sup>

In sum, Exchange Rule 11.24, Limit Up-Limit Down, addresses the treatment of certain orders to prevent executions

outside the Price Bands.<sup>13</sup> The Exchange proposes to amend Rule 11.24(k) in order to explain how the Exchange will route orders under the Plan. Rule 11.24(k) currently states that the Exchange will route orders to an away market in accordance with Rule 11.15(a)(ii) *regardless* of whether the away market is displaying a sell (buy) quote that is above (below) the Upper (Lower) Price Band. The Exchange now proposes to not route an order unless an away market is displaying trading interest at or within the Price Bands. As amended, Rule 11.24(k) will state that the Exchange will not route an order unless an away market is displaying a sell (buy) quote that is at or below (above) the Upper (Lower) Price Band.<sup>14</sup> The Exchange believes that this provision is reasonably designed to prevent an execution from occurring outside the Price Bands in a manner that promotes compliance with the Limit Up-Limit Down and Trading Pause requirements specified in the Plan. This approach is also consistent with that of other exchanges, including the New York Stock Exchange, Inc. ("NYSE")<sup>15</sup> and EDGA Exchange, Inc. ("EDGA").<sup>16</sup>

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Exchange Act.<sup>17</sup> In addition, the rule furthers the objective of Section 6(b)(5) of the Exchange Act<sup>18</sup> by promoting just and equitable principles of trade, removing impediments to, and perfecting the mechanisms of, a free and open national market system while protecting investors and the public interest. The proposal furthers these causes by ensuring that orders in NMS Stocks are not routed to other away markets where an execution may occur outside the Price Bands, and thereby is reasonably designed to prevent an execution outside the Price Bands in a manner that promotes compliance with

the Limit Up-Limit Down and Trading Pause requirements specified in the Plan.

*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. All national securities exchanges are required to establish, maintain, and enforce policies and procedures reasonably designed to comply with the requirements of the Plan. Every member of those exchanges, including ETP Holders of the Exchange, are subject to those procedures and prevented from executing an order in an NMS Stock outside of the Price Bands prescribed by the Plan. Therefore, the Exchange believes the proposed rule change does not 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 on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup> 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 prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>21</sup> normally does not become operative prior to 30 days after

<sup>13</sup> See *supra* note 9.

<sup>14</sup> Under NSX Rule 11.15(a)(iii), unless the terms of the order direct otherwise, any order not executed in full on the Exchange which is not eligible for routing away (e.g., no away market is displaying a sell (buy) quote that is at or below (above) the Upper (Lower) Price Band), or which is not executed in full when routed away, will be ranked in the NSX Book in accordance with the order priority rules under NSX Rule 11.14 and eligible for execution in accordance with NSX Rule 11.15.

<sup>15</sup> See Securities Exchange Act Release No. 68876 (February 8, 2013), 78 FR 10643 (February 14, 2013) (SR-NYSE-2013-09).

<sup>16</sup> See Securities Exchange Act Release No. 69002 (February 27, 2013), 78 FR 14394 (March 5, 2013) (SR-EDGA-2013-08).

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> See e.g., NSX Rule 11.20B.

<sup>6</sup> See e.g., NSX Rule 11.19.

<sup>7</sup> See e.g., NSX Rule 11.8(a)(1)(B)(iv) and (v).

<sup>8</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (Order approving, on a Pilot Basis, the National Market System Plan to Address Extraordinary Market Activity).

<sup>9</sup> See Securities Exchange Act Release No. 69087 (March 8, 2013), 78 FR 16325 (March 14, 2013) (SR-NSX-2013-09).

<sup>10</sup> Unless otherwise specified, capitalized terms used in this rule filing are based on defined terms in the Plan.

<sup>11</sup> See Section V(A) of the Plan.

<sup>12</sup> The Exchange is a Participant in the Plan.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>22</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the operative delay and designating April 8, 2013 as the operative date of the proposed rule change is consistent with the protection of investors and the public interest because such waiver would allow the proposed rule change to be operative on the initial date of Plan operations. Accordingly, the Commission hereby grants the Exchange's request and designates an operative date of April 8, 2013.<sup>23</sup>

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:

##### *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-NSX-2013-12 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-NSX-2013-12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-NSX-2013-12 and should be submitted on or before May 1, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69313; File No. SR-NSCC-2013-02]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed To Increase Liquidity Resources To Meet Its Liquidity Needs

April 4, 2013.

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> notice is hereby given that on March 21, 2013, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change as described in Items I, II and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

To enhance its ability to meet its liquidity requirements, NSCC is proposing to amend its Rules & Procedures ("Rules") to provide for a supplemental liquidity funding obligation, as described below.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

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

##### Proposal Overview

As a central counterparty ("CCP"), NSCC occupies an important role in the securities settlement system by interposing itself between counterparties to financial transactions, thereby reducing the risk faced by its Members and contributing to global financial stability. Further, pursuant to the Payment, Clearing, and Settlement Supervision Act of 2010 ("Clearing Supervision Act"),<sup>4</sup> NSCC has been designated a systemically important financial market utility ("SFMU") by the Financial Stability Oversight Council, obliging NSCC to meet certain risk management regulatory standards related to, among other things, maintaining adequate financial resources to meet its obligations to its Members in the event of the default of the Member or family of affiliated Members ("Affiliated Family") that would generate the largest aggregate payment obligation to NSCC in stressed conditions. In this regard and to enhance its ability to meet its liquidity requirements, NSCC is proposing to amend its Rules to provide for a

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>4</sup> 12 U.S.C. 5465(e)(1).

<sup>24</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1). Defined terms that are not defined in this notice are defined in Exhibit 5 of the proposed rule change filing, available at <http://www.sec.gov/rules/sro/nsccl.shtml> under File No. SR-NSCC-2013-02, Additional Materials.

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

<sup>22</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>23</sup> For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).