

U.S. Office of Personnel Management.

**Katherine L. Archuleta,**

*Director.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72328; File No. SR-NASDAQ-2014-034]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to Proposed Changes To Remove From the Exchange Rules Fee Provisions Regarding Re-Transmission of "Third-Party Data"

June 5, 2014.

On April 7, 2014, The NASDAQ Stock Market LLC ("Nasdaq" or the "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 remove, from the Exchange rules, fee provisions with respect to third-party data feeds that Nasdaq receives from multiple sources and then re-transmits to clients in connection with the Exchange's co-location services. The proposed rule change was published for comment in the **Federal Register** on April 28, 2014.<sup>3</sup> The Commission received no comment on the proposal.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 12, 2014. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed

rule change. The proposed rule change would, among other things, determine whether fees for third-party data feeds provided by Nasdaq to its co-located clients could be removed from the Exchange rules.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates July 25, 2014, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72326; File No. SR-NYSEMKT-2014-49]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE MKT BBO Market Data Product Offering

June 5, 2014.

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 May 23, 2014 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, II, and III 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE MKT BBO market data product offering. The text of 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the NYSE MKT BBO market data product offering. In 2010, the Securities and Exchange Commission ("Commission") approved the NYSE MKT BBO data feed and certain fees for it.<sup>4</sup> NYSE MKT BBO is an NYSE MKT-only market data feed that distributes on a real-time basis the same best-bid-and-offer information that the Exchange reports under the Consolidated Quotation ("CQ") Plan for inclusion in the CQ Plan's consolidated quotation information data stream. The data feed includes the best bids and offers for all securities that are traded on the Exchange and for which the Exchange reports quotes under the CQ Plan.

The Exchange has determined to add information about security status, such as whether a security is in a short sale restriction or retail price improvement indications pursuant to NYSE MKT Rule 107C(j)—Equities, to the NYSE MKT BBO data feed. There will be no change to the fees for the NYSE MKT BBO feed in connection with this change.<sup>5</sup>

The Exchange expects to offer the current NYSE MKT BBO data product and the proposed NYSE MKT BBO data product with the added security status information at the same time for a limited transition period. After the transition period, the Exchange will offer only the proposed NYSE MKT BBO with the added security status

<sup>4</sup> See Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR-NYSEAmex-2010-35).

<sup>5</sup> When the security status information is added, NYSE MKT BBO also will be distributed in a new format, Exchange Data Protocol ("XDP"). The feed will also include a symbol index mapping message that will be sent once a day. These two changes do not affect the real-time data content that is distributed.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 71990 (April 22, 2014), 79 FR 23389 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<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.

information. The Exchange will announce the transition dates in advance.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5)<sup>7</sup> of the Act, 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, 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange believes that including the additional information in NYSE MKT BBO will provide vendors and subscribers with a more comprehensive and higher quality market data product. The NYSE MKT BBO data feed will help to protect a free and open market by providing vendors and subscribers with additional choices in receiving proprietary market data, thus promoting competition and innovation. The Exchange believes that NYSE MKT BBO offers an alternative to consolidated data products and proprietary data products offered by other exchanges.<sup>8</sup> In addition, the proposal would not permit unfair discrimination because the product will be available to all of the Exchange's market data vendors and customers on an equivalent basis.

In adopting Regulation NMS, the Commission granted self-regulatory organizations ("SROs") and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The

Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

[E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.<sup>9</sup>

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. The Exchange believes that offering NYSE MKT BBO with the additional information reflects innovation in its product offerings and promotes competition for the provision of market data. The existence of alternatives to the Exchange's products, including real-time consolidated data and proprietary data from other exchanges, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives.

### *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 market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. NYSE MKT BBO offers an alternative to similar products offered by other exchanges,<sup>10</sup> thus promoting competition. The existence of numerous alternatives to the Exchange's products, including real-time consolidated data

and proprietary data from other sources, subjects the Exchange to vigorous competition. Vendors and subscribers are free to elect these alternatives, purchase some or all of the underlying data feeds, or choose not to purchase a specific proprietary data product at all.

### *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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</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, 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,<sup>13</sup> 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.

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>14</sup> of the Act 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,

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> The Exchange has satisfied this requirement.

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> For example, NASDAQ Basic includes market status information including Stock Directory, Emergency Market Condition event messages, System Status and Trading Halt information for NASDAQ, NYSE, NYSE MKT, NYSE Arca and other regional exchange listed issues. See NASDAQ Rule 7047 and <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBasic>.

<sup>9</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04).

<sup>10</sup> See *supra* note 8.

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-2014-49 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-NYSEMKT-2014-49. 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 20549-1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for Web site viewing and printing at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://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-2014-49 and should be submitted on or before July 2, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-72331; File No. SR-OCC-2014-13]

**Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide for the Calculation of Initial Margin Requirements for Segregated Futures Accounts Through the Use of the Standard Portfolio Analysis of Risk Margin Calculation System**

June 5, 2014.

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 May 28, 2014, The Options Clearing Corporation ("OCC") 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 OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(6)<sup>4</sup> thereunder.

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

This proposed rule change by The Options Clearing Corporation ("OCC") would provide for the calculation of initial margin requirements for segregated futures accounts through the use of the Standard Portfolio Analysis of Risk ("SPAN") margin calculation system in place of OCC's System for Theoretical Analysis and Numerical Simulations ("STANS") margin calculation system.

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

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

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), OCC 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 the proposed rule change, or such shorter time as designated by the Commission.

(A) *Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

OCC is proposing to modify its rules to provide for the calculation of margin requirements for segregated futures accounts through the use of the SPAN margin calculation system in place of OCC's STANS margin calculation system, subject to OCC's collection of enhanced margin to be deposited in the segregated futures account in the event that the margin requirement as calculated under STANS would exceed the requirement calculated under SPAN.

**Compliance With CFTC Rule 39.13(g)(8)**

On April 25, 2012, and November 2, 2012, OCC implemented Rule 602(a) and Rule 601(c), respectively, in compliance with Commodity Futures Trading Commission ("CFTC") Rule 39.13(g)(8),<sup>5</sup> which, in relevant part, requires registered derivatives clearing organizations ("DCOs") such as OCC to (i) collect initial margin for customer segregated futures accounts on a gross basis and (ii) have rules requiring clearing members to collect initial margin from their customers in an amount that is greater than the amount the DCO collects from clearing members.<sup>6</sup> Together, Rules 601(c) and 602(a) resulted in customer level margin requirements for segregated futures accounts that are calculated by clearing members using SPAN, but subject to a "floor" established by the clearing level margin requirements calculated by OCC using STANS.

**Use of STANS Inputs in Calculation of Customer Level Margin Requirements**

In addition to implementing the above described changes to its systems to margin segregated futures accounts on a gross basis, OCC sought to bring customer level margin requirements into conformity with STANS risk parameters by changing the initial risk parameter inputs for particular cleared contracts in segregated futures accounts.<sup>7</sup> Previously, OCC used SPAN risk parameters received from the futures exchange listing a particular cleared contract when preparing theoretical output files that clearing members used in SPAN calculations to calculate

<sup>5</sup> 17 CFR 39.13(g)(8).

<sup>6</sup> See Securities Exchange Act Release No. 66841 (April 20, 2012), 77 FR 24999 (April 26, 2012) (SR-OCC-2012-06) and Securities Exchange Act Release No. 68148 (November 2, 2012), 77 FR 67036 (November 8, 2012) (SR-OCC-2012-17).

<sup>7</sup> *Id.*

<sup>15</sup> 17 CFR 200.30-3(a)(12).