

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73159; File No. SR-NYSEMKT-2014-78]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .01 to Rule 341 To Specify the Registration and Examination Requirements for Certain Persons Engaged in Supervisory Activities

September 22, 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 September 16, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Commentary .01 to Rule 341 to specify the registration and examination requirements for certain persons engaged in supervisory activities. 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

##### (a) Purpose [sic]

The Exchange proposes to amend Commentary .01 to Rule 341 to specify the registration and examination requirements for a person engaged in the supervision of register [sic] representatives (“General Securities Representatives”) and Proprietary Traders.

Rule 341(a) and Commentary .01 to Rule 341 prescribe the registration and qualification requirements for individuals performing certain duties on behalf of a member or member organization, including regarding General Securities Representatives and their supervisors and Proprietary Traders and their supervisors. A General Securities Representative is any person engaged in the purchase or sale of securities or other similar instruments on an agency basis or for the proprietary account of a member or member organization with which he or she is associated, as an employee or otherwise. A Proprietary Trader is any person engaged in the purchase or sale of securities or other similar instruments for the proprietary account of a member or member organization with which he or she is associated, as an employee or otherwise, and who does not transact any business with the public.<sup>4</sup> The General Securities Registered Representative Examination (“Series 7”) is the qualifying examination for General Securities Representatives and the Proprietary Traders Examination (“Series 56”) is the qualifying examination for Proprietary Traders.<sup>5</sup>

The Exchange proposes to prescribe within Commentary .01 to Rule 341 that a supervisor of a General Securities Representative must register and qualify as a General Securities Principal in Web CRD<sup>6</sup> by passing the General Securities Principal Qualification Examination

<sup>4</sup> The term “Proprietary Trader” does not include a person who is required to be registered as a Market Maker in accordance with Rule 921NY or a Market Maker Authorized Trader in accordance with Rule 921.1NY. See Commentary .01 to Rule 341.

<sup>5</sup> See Securities Exchange Act Release No. 66453 (February 23, 2012), 77 FR 12345 (February 29, 2012) (SR-NYSEAmex-2012-11). An individual may also register as a Proprietary Trader by passing the General Securities Registered Representative Examination (“Series 7 Examination”) without passing the Series 56 Examination.

<sup>6</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators operated by the Financial Industry Regulatory Authority (“FINRA”).

(“Series 24”). The Exchange presently requires persons acting in a supervisory capacity to be registered as a General Securities Principal and pass the Series 24 and Series 7. This filing serves to codify the existing registration and examination requirements and does not impart any new obligations on individuals registered as a [sic] General Securities Principal. The Exchange also proposes to prescribe within Commentary .01 to Rule 341 that a supervisor of a Proprietary Trader may choose to register and qualify as a Proprietary Trader Principal in Web CRD if such supervisor’s supervisory responsibilities are limited solely to supervising Proprietary Traders, by passing the Series 24 Examination and registering pursuant to Exchange Rules as a Proprietary Trader. The Proprietary Trader Principal registration would be a limited principal registration and would not authorize an individual to supervise non-Proprietary Traders. Therefore, the Exchange also proposes to specify within Commentary .01 to Rule 341 that a Proprietary Trader Principal would not be qualified to function in a Principal or supervisory capacity with responsibility over any area of business other than that involves [sic] proprietary trading.

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that Amex Trading Permit Holders (“ATP Holders”)<sup>7</sup> or their registered persons would have in complying with the proposed change.

The Exchange is also proposing to amend Commentary .01 to Rule 341 by renumbering existing rule text. This non-substantive change is being proposed simply to structure the rule in a more clear and concise format.

##### 2. Statutory Basis

##### (b) Statutory Basis [sic]

The proposed rule change is consistent with Section 6(c) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(c)(3) of the Act,<sup>9</sup> in particular, which authorizes the Exchange to prescribe standards of training, experience and competence for registered persons of ATP Holders. The Exchange believes that the proposed examination requirements for General Securities Principals and Proprietary Trader Principals will help to ensure that they are competent to perform such supervisory functions and the registration requirements will result in their being subject to ongoing training

<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.

<sup>7</sup> See Rule 900.2NY(5).

<sup>8</sup> 15 U.S.C. 78f(c).

<sup>9</sup> 15 U.S.C. 78f(c)(3).

requirements under the Exchange's rules.<sup>10</sup> The Exchange believes that the proposed rule change is reasonable because the Proprietary Trader Principal category is limited and tailored to persons supervising proprietary trading functions and because other markets already recognize Proprietary Trader Principal registration and related examination requirements.<sup>11</sup> The Exchange also believes that it is reasonable to prescribe the Series 24 Examination as the appropriate examination for persons acting in a supervisory capacity because the Series 24 Examination tests knowledge and understanding of supervision-related rules, including but not limited to rules governing sales practices, books and records, account suitability, trade review and trade reporting requirements.

The Exchange also believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, because 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change accomplishes these objectives by enabling individuals to qualify for registration with the Exchange by passing a qualification examination that specifically addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for such persons electing to register as a

General Securities Principal or a Proprietary Trader Principal.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

##### *Self-Regulatory Organization's Statement on Burden on Competition [sic]*

In accordance with Section 6(b)(8) of the Act,<sup>14</sup> 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. Specifically, the Exchange does not believe that the introduction of examination requirements for General Securities Principal and Proprietary Trader Principal registration will affect intermarket competition because the Exchange anticipates that other markets will similarly adopt, or other markets have adopted, rules requiring such registration and examination.<sup>15</sup> In addition, the Exchange does not believe that the proposed rule change will affect intramarket competition because all similarly situated registered persons of ATP Holders, *e.g.*, registered persons maintaining the same categories of registration, are required to complete the same qualification examinations and maintain the same registrations.

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

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

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

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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<sup>16</sup> and Rule 19b-4(f)(6)(iii) thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may

become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as this proposed rule change will make NYSE MKT's rules consistent with those of the other markets which already provide for the Proprietary Trader Principal category of registration and set forth the qualification requirements for Proprietary Trader Principals.<sup>17</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>18</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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>19</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, 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-2014-78 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEMKT-2014-78. 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

<sup>17</sup> The Commission notes that, with respect to the General Securities Principal registration category, NYSE MKT states that it is codifying an existing requirement.

<sup>18</sup> 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).

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>10</sup> Rule 341A specifies the continuing education requirements for registered persons subsequent to their initial qualification and registration, which consist of a Regulatory Element and a Firm Element. The S201 Regulatory Element Program is required for registered Supervisors/Principals.

<sup>11</sup> See, *e.g.*, Commentary .08 to Chicago Board Options Exchange ("CBOE") Rule 3.6A and Securities Exchange Act Release No. 67000 (May 16, 2012), 77 FR 30338 (May 22, 2012) (SR-CBOE-2012-039). See also NASDAQ OMX BX ("BX") Rule 1022(h) and Securities Exchange Act Release No. 65056 (August 8, 2011), 76 FR 50279 (August 12, 2011) (SR-BX-2011-053).

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78f(b)(8).

<sup>15</sup> See *supra* note 9 [sic].

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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 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 Number SR-NYSEMKT-2014-78 and should be submitted on or before October 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73177; File No. SR-MIAX-2014-49]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 404

September 22, 2014.

Pursuant to the provisions of 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 September 18, 2014, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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 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 is filing a proposal to amend Rule 404.

The text of the proposed rule change is available on the Exchange's Web site at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX's principal office, 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 places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The Exchange is proposing to amend Exchange Rule 404 to allow \$1 or greater strike price intervals for options listed on the SPDR S&P 500 ETF ("SPY") and the SPDR Dow Jones Industrial Average ETF ("DIA"), consistent with recent changes proposed by NASDAQ OMX PHLX ("Phlx") and approved by the Commission.<sup>3</sup> Options on SPY and DIA have historically traded on the MIAX with \$1 intervals up to a strike price of \$200 pursuant to Rule 404(g), which permits options on Exchange-Traded Fund Shares to be traded in intervals that were established on other exchanges prior to listing on the Exchange. Above \$200 these options classes trade with significantly wider \$5 strike price intervals. As the underlying securities have been steadily approaching, and in the case of SPY has recently surpassed, the \$200 mark, and in response to increased investor and member demand to list additional

strikes in these heavily traded options classes, the Exchange now proposes to list options on SPY and DIA in dollar intervals regardless of the strike price.

Specifically, the Exchange proposes to add Interpretations and Policies .10 to Rule 404 to state that notwithstanding any other provision regarding the interval of strike prices of series of options on Exchange-Traded Fund Shares in Rule 404, the interval of strike prices on SPY and DIA options will be \$1 or greater. By having smaller strike intervals in SPY and DIA, investors will have more efficient hedging and trading opportunities. The proposed \$1 intervals above a \$200 strike price will result in having at-the-money series based on the underlying SPY or DIA moving less than 1%, which falls in line with slower price movements of a broad-based index. Furthermore, the proposed \$1 intervals will allow members to continue to employ current option trading and hedging strategies in SPY and DIA. Considering that \$1 intervals already exist below the \$200 price point, and that SPY and DIA are both trading close to or at the \$200 level, continuing to maintain the artificial \$200 ceiling (above which intervals increase 500% to \$5), will have a negative effect on investing, trading and hedging opportunities and volume. The continued demand for highly liquid options such as SPY and DIA, and the investing, trading, and hedging opportunities they represent, far outweighs any potential negative impact of allowing SPY and DIA options to trade in more finely tailored intervals above a \$200 price point.

With the proposal, for example, investors and traders would be able to roll open positions from a lower strike to a higher strike in conjunction with the price movement of the underlying. Under the current rule, where the next higher available series would be \$5 away above a \$200 strike price, the ability to roll such positions is effectively negated. Thus, to move a position from a \$200 strike to a \$205 strike under the current rule, an investor would need for the underlying product to move 2.5%, and would not be able to execute a roll up until such a large movement occurred. With the proposed rule change, however, the investor would be in a significantly safer position of being able to roll his open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying.

By allowing SPY and DIA options in \$1 intervals over a \$200 strike price, the proposal will moderately augment the total number of options series available on the Exchange. However, the

<sup>20</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> See Securities Exchange Act Release Nos. 72949 (August 29, 2014), 79 FR 53089 (September 5, 2014) (SR-Phlx-2014-46); 72998 (September 4, 2014), 79 FR 53813 (September 10, 2014) (SR-ISE-2014-42); 72990 (September 4, 2014), 79 FR 53799 (September 10, 2014) (SR-CBOE-2014-068).