

mechanism of a free and open market and a national market system by continuing to advance the efficiency and transparency of the opening process and fostering price discovery at the open of trading, thereby minimizing information imbalances in the marketplace. Similarly, the proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market by providing customers and the investing public with continuous, automated information for securities where there will likely be a significant price change from the previous day's closing price or for which there is a significant published imbalance. For the same reasons, the proposal is also designed to protect investors as well as the public interest.

#### *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 proposed rule change is not intended to address competitive issues but rather technologically augment the current process of providing pre-market information to customers and the investing public.

#### *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 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup>

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</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.

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>11</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-NYSE-2014-50 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-NYSE-2014-50. 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 the filing will also be available for Web site viewing and printing at the NYSE's

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

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-NYSE-2014-50 and should be submitted on or before November 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014-24941 Filed 10-20-14; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-73353; File No. SR-NYSEMKT-2014-89]

### **Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Amend Certain of Its Rules To Remove and Replace Obsolete References to Fixed Return Options With the Updated References to Binary Return Derivatives Contracts**

October 15, 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 October 8, 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 [sic]. 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.

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

<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.

## 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 is proposing to amend certain of its rules to remove and replace obsolete references to Fixed Return Options with the updated references to Binary Return Derivatives contracts ("ByRDs"). The Exchange recently filed and received approval for rule changes related to, among other things, a name change for securities previously known as Fixed Return Options or FROs to reflect a name change to ByRDs.<sup>4</sup> However, several references to FROs remain in Rules 462(d),<sup>10</sup> 909ByRDs and 980ByRDs. This rule filing is intended to replace these remaining references to FROs with references to ByRDs, which will clarify Exchange rules and alleviate any investor confusion.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>5</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5),<sup>6</sup> in particular, in that it is designed 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. Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanisms of a free and open market by making rule text consistent with the new name of the options

product (*i.e.*, ByRDs).<sup>7</sup> The Exchange also believes that the proposed clarifying changes and deletions of obsolete references to FROs may reduce potential investor confusion, and protect investors and the public interest.

### 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 proposed change is not designed to address any competitive issue but rather to revise obsolete or inaccurate rule text, thereby reducing confusion and making the Exchange's rules easier to understand and navigate. The Exchange believes that the proposed rule change will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

### 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>8</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>9</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement would allow the Exchange to delete or correct outmoded references without delay, which would allow market participants to realize the

<sup>7</sup> See *supra* n. 4.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii). 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.

benefits of the clarified rules. The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would eliminate potential investor confusion without delay by amending the Exchange's rules to accurately reflect the name of the options product (ByRDs) and by removing references to its former name (Fixed Return Options). Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>10</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>11</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-2014-89 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-2014-89. 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

<sup>10</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>11</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>4</sup> See Securities and Exchange Release No. 71957 (April 16, 2014), 79 FR 22563 (April 22, 2014) (SR-NYSEMKT-2014-06).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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-2014-89 and should be submitted on or before November 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014-24945 Filed 10-20-14; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73367; File No. SR-NYSEMKT-2014-86]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Modifying Its Quote Mitigation Plan and Amending Rule 970NY and Rule 970.1NY

October 15, 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 October 2, 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 the Substance of the Proposed Rule Change

The Exchange proposes to modify its quote mitigation plan and to amend Rule 970NY (Firm Quotes) and Rule 970.1NY (Quote Mitigation). 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange is proposing to modify its quote mitigation plan and to amend Rule 970NY (Firm Quotes) and Rule 970.1NY (Quote Mitigation). As discussed below, the Exchange believes the modified quote mitigation plan will adequately accommodate the number of quotations sent to the Exchange and the message traffic that the Exchange sends to the Options Price Reporting Authority ("OPRA").

###### Rule 970.1NY

In connection with the adoption of the Penny Pilot Program, the Exchange adopted a quote mitigation plan designed to reduce the number of quotations generated by the Exchange for all options traded on the Exchange, not just issues included in the Penny Pilot Program.<sup>4</sup> The current plan reduces the number of messages the Exchange sends to OPRA by only submitting quote messages for "active" series. Rule 970.1NY defines active

series as: (i) The series has traded on any options exchange in the previous 14 calendar days; or, (ii) the series is solely listed on the Exchange; or (iii) the series has been trading ten days or less; or, (iv) the Exchange has an order in the series. Alternatively, the Exchange may define a series as active on an intraday basis if: (i) The series trades at any options exchange; (ii) the Exchange receives an order in the series; or (iii) the Exchange receives a request for quote from a Customer in that series.

The Exchange believes it no longer needs the quote mitigation provided by Rule 970.1NY because rules adopted since Rule 970.1NY provide sufficient quote mitigation.

###### Current Market Structure and Controls on the Exchange

In 2010, the Exchange incorporated select provisions of the Options Listing Procedures Plan ("OLPP") in Rule 903A as a quote mitigation strategy.<sup>5</sup>

The OLPP is a national market system plan that, among other things, sets forth procedures governing the listing of new options series. From the OLPP, the Exchange incorporated in Rule 903A "applied uniform standards to the range of options series exercise (or strike) prices available for trading on the [Exchange] as a quote mitigation strategy."<sup>6</sup> In approving the OLPP provisions, subsequently incorporated in Rule 903A, the Commission indicated that "adopting uniform standards to the range of options series exercise (or strike) prices available for trading on the [Exchange] should reduce the number of option series available for trading, and thus should reduce increases in the options quote message traffic because market participants will not be submitting quotes in those series."<sup>7</sup>

One year after adopting select provisions of the OLPP, the Exchange refined the quoting obligations applicable to Market Makers as a quote mitigation strategy.<sup>8</sup> Specifically, the Exchange adopted Commentary .01 to Rule 925.1NY, which states that Specialists' and Market Makers' continuous quoting obligations "shall not apply to Market Makers with respect to adjusted option series, and series

<sup>5</sup> See Securities and Exchange Release No. 61978 (April 23, 2010), 75 FR 22886 (April 30, 2010) (SR-NYSEAmex-2010-3). See also OLPP, available at <http://www.theocc.com/clearing/industry-services/olpp.jsp>.

<sup>6</sup> Rule 903A codified Amendment No. 3 to the OLPP. See Securities and Exchange Release No. 60531 (August 19, 2009), 74 FR 43173 (File No. 4-443). See also Rule 903A.

<sup>7</sup> *Id.*, 74 FR at 43174.

<sup>8</sup> See Securities and Exchange Release No. 65572 (October 14, 2011), 76 FR 65310 (October 20, 2011) (NYSEAmex-2011-61).

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

<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>4</sup> See Securities and Exchange Release No. 59472 (February 29, 2009), 74 FR 9843 (March 6, 2009) (SR-ALTR-2008-14); see also Securities and Exchange Release No. 55162 (January 24, 2007), 72 FR 4738 (February 1, 2007) (SR-Amex-2006-106) (original quote mitigation proposal).