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 [8] and Rule 19b–4(f)(6) [9] thereunder.

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. If the Commission takes such action, the Commission will institute proceedings 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*. Please include File Number SR–C2–2014–028 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–C2–2014–028. 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 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–C2–2014–028 and should be submitted on or before February 6, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00624 Filed 1–15–15; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74036; File No. SR–NYSEMKT–2014–97]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change Amending Rules 311—Equities and 313—Equities To Add Limited Liability Companies as Eligible Member Organizations and Delineate the Information Limited Liability Companies Must Submit to the Exchange as Part of the Membership Process; Eliminate the Requirement That a Member Corporation Be Created or Organized, and Maintain Its Principal Place of Business, in the United States; and Make Additional Related Amendments To Update Its Membership Rules

January 12, 2015.

I. Introduction

On November 12, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE MKT Rules 311—Equities (''Rule 311'') and 313—Equities (''Rule 313'') to add limited liability companies (''LLCs'') to the types of eligible member organizations and delineate the information LLCs must submit to the Exchange as part of the membership process; eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States; and make additional related amendments to update its membership rules. The proposed rule change was published for comment in the **Federal Register** on November 28, 2014.[3] The Commission received one comment on the proposal.[4] This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

A. Rule 311

NYSE MKT Rule 311 governs the formation and approval of member organizations. The Exchange proposes to revise Rule 311 to explicitly provide for LLCs to apply to become member organizations and eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States.

The Exchange's membership rules currently provide for member organizations to be corporations or partnerships, but have not explicitly provided for LLCs.[5] The Exchange proposes to add LLCs to the types of potential member organizations and require LLCs to meet the same requirements currently applicable to partnerships and corporations set forth in Rule 311(b). As part of the proposed revision, the Exchange seeks to add a new section (4) to Rule 311(b) requiring every member of an LLC to be a member, principal executive, or approved person.[6] The Exchange also proposes to amend current Rule 311(b)(6) to reflect that proposed LLC member organizations must, like corporations and partnerships, also comply with any additional requirements as the rules of the Exchange may prescribe. In addition, the Exchange proposes to add new Supplementary Material .16 to Rule 311 to specify that LLC applicants for Exchange membership are subject to Rule 313.24 regarding the submission of copies of proposed or existing limited

[3] *See* Securities Exchange Act Release No. 73671 (Nov. 21, 2014), 79 FR 70900 (Nov. 28, 2014) (''Notice'').

[4] *See* anonymous comment submitted through the Commission's Internet comment form on December 19, 2014.

[5] Current Rule 311(f) permits the Exchange to approve ''entities that have characteristics essentially similar to corporations, partnerships, or both'' as a member organization ''on such terms and conditions as the Exchange may prescribe.''

[6] Rule 311(b)(2) and (b)(3) currently impose the same requirement on the relevant control persons at corporations and partnerships, respectively.

liability company documents and other agreements.

The Exchange also proposes to amend Rule 311(f) to eliminate the geographic limitation on incorporation and domicile of corporation members. The first sentence of Rule 311(f) currently provides that every member corporation be a corporation ''created or organized under the laws of, and shall maintain its principal place of business in, the United States or any State thereof.'' [7] The Exchange does not believe that the Exchange's restriction on whether foreign entities may be a member organization is consistent with either federal rules or those of other self-regulatory organizations (''SRO''). The Exchange states that rules promulgated pursuant to the Act require, under certain circumstances, a foreign broker-dealer to register with the Commission.[8] The Exchange also states that other SROs, including the Financial Industry Regulatory Authority, Inc. (''FINRA''), do not require their members to be domiciled in the United States.[9]

The Exchange believes that the current restriction in Rule 311(f) puts it at a competitive disadvantage because it restricts foreign broker-dealers that are registered with the Commission and are members of another SRO from also becoming Exchange member organizations. The Exchange notes that its rules already require member organizations to meet prerequisites as specified in Rule 2(b). Specifically, regardless of corporate form, all member organizations must be registered broker-dealers that are members of FINRA or another registered securities exchange. If a registered broker-dealer transacts business with public customers or conducts business on the Floor of the Exchange, such member organization must be a member of FINRA.

The Exchange further notes that a member organization will be subject to regulatory examination and jurisdiction for misconduct whether or not it is based in the United States. However, for the avoidance of doubt, as discussed below, the Exchange proposes to add supplementary material to Rule 313 based on NASD Rule 1090 that imposes certain requirements on foreign members that do not maintain an office in the United States.

B. Rule 313

NYSE MKT Rule 313 sets forth certain corporate or partnership documents that each member organization must submit to enter into and continue in NYSE membership. The Rule also sets forth certain restrictions on capital withdrawals and distributions applicable to member corporations and partnerships. The Exchange proposes to amend Rule 313 to delineate the types of documents that LLCs must submit that, as noted, mirror the requirements currently in place for member corporations and partnerships.

First, the Exchange proposes to add a subsection (d) to Rule 313 requiring all articles of organization and operating documents for LLCs to be submitted for Exchange approval prior to becoming effective. Relatedly, the Exchange proposes to add Supplementary Material .24 setting forth that existing LLCs must promptly submit certified copies (to the extent possible) of articles of organization and operating agreements to the Exchange.

Second, the Exchange proposes to add Supplementary Material .25 providing restrictions on capital withdrawals by LLC members that are substantially the same as those applicable to corporations and partnerships. The Supplementary Material would provide that the capital contribution of any LLC member may not be withdrawn on less than six months' written notice of withdrawal given no sooner than six months after such contribution was first made without the prior written approval of the Exchange. The Supplementary Material would also specify that each member firm shall promptly notify the Exchange of the receipt of any notice of withdrawal of any part of a member's capital contribution or if any withdrawal is not made because prohibited under the provisions of Rule 15c3–1 under the Act.

Third, the Exchange proposes to add Supplementary Material .26 providing that LLCs not organized under the laws of New York State must subject themselves to the following restrictions: No distributions shall be declared or paid that impair the LLC's capital; and no distribution of assets shall be made to any member unless the value of the LLC's assets remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital. These proposed restrictions are based on existing restrictions applicable to member corporations and partnerships.

In addition, as noted above, the Exchange proposes to add new Supplementary Material .27 to Rule 313 specifying the requirements applicable to Foreign Member Organizations. The proposed new rule text would adopt, without substantive change, paragraphs (a), (b), and (c) of NASD Rule 1090 (Foreign Members), which impose specific requirements on FINRA members that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed by the SEC and FINRA.[10] As proposed, foreign member organizations that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the Exchange would be required to: (1) Prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars; (2) reimburse the Exchange or its representatives for expenses incurred in connection with examinations of the member organization to the extent that such expenses exceed the cost of examining a member organization located within the continental United States in the geographic location most distant from the Exchange's principal office or, in such other amount as the Exchange may deem to be an equitable allocation of such expenses; and (3) ensure the availability of an individual fluent in English and knowledgeable in securities and financial matters to assist

[7] The first sentence of Rule 311(f) also provides that every member firm organization shall be a partnership or corporation. This statement is redundant to Rule 311(b), which the Exchange is amending to add LLCs. Accordingly, the Exchange proposes to delete the first sentence of Rule 311(f) in its entirety.

[8] *See* 17 CFR 240.15a-6 and Commission Guide to Broker-Dealer Registration, Division of Trading and Markets, available at *http://www.sec.gov/divisions/marketreg/bdguide.htm* (foreign broker-dealers that, from the outside of the United States, induce or attempt to induce securities transactions by any person in the United States, or that use the means or instrumentalities of interstate commerce in the United States for this purpose, must register as broker-dealers with the Commission).

[9] *See, e.g.,* NASD Membership and Registration Rules (1000 Series). NASD Rule 1090 imposes specific requirements on members that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the SEC and the Exchange, which the Exchange proposes to import into Rule 313. *See infra* note 10 and accompanying text. *See also* BATS Exchange, Inc. Rules 2.3, 2.5 and 2.6.

[10] The Exchange is not proposing to adopt a rule similar to NASD Rule 1090(d), which requires foreign members to ''utilize, either directly or indirectly, the services of a broker/dealer registered with the Commission, a bank or a clearing agency registered with the Commission located in the United States in clearing all transactions involving members of the Association, except where both parties to a transaction agree otherwise.'' The Exchange agrees with FINRA, which similarly recommended skipping paragraph (d) as part of its contemplated adoption of NASD Rule 1090, that the provision is ''outdated'' and that clearing arrangements are better addressed by FINRA Rule 4311 (Carrying Agreements). *See* FINRA Regulatory Notice 13–29 at 27 (Sept. 2013). FINRA Rule 4311 governs the requirements applicable to members when entering into agreements for the carrying of any customer accounts in which securities transactions can be effected.

representatives of the Exchange during examinations.

The Exchange also proposes to eliminate certain restrictions, which the Exchange considers redundant, on member organizations and prospective member organizations organized as partnerships and corporations. The Exchange proposes to eliminate the requirement in Rule 313.11 that the partnership articles of each member firm provide that capital withdrawals by partners cannot be made without the prior written approval of the Exchange. Rule 313.11 already requires the Exchange's prior written approval for any such capital withdrawals, and member organizations need to monitor for and comply with the prohibition, including whether particular withdrawals violate net capital requirements. The Exchange believes that because Exchange rules already govern this behavior, a partnership seeking approval as a member organization would not need to amend its partnership articles to reflect this existing rule requirement.[11]

Further, the Exchange proposes to eliminate the requirement in Rule 313.20 that prospective member corporations submit an opinion of counsel stating, among other things, that the corporation is duly organized and existing, that its stock is validly issued and outstanding, and that the restrictions and provisions required by the Exchange on the transfer, issuance, conversion and redemption of its stock have been made legally effective. Corporate members are required under the Rule to submit relevant corporate documents, including articles of incorporation, that contain the same information required in the opinion of counsel. The Exchange represents that requiring a legal opinion attesting to facts contained in a corporation's public filings is redundant and, given the expense, potentially a disincentive to smaller entities applying for Exchange membership.

Similarly, the Exchange proposes to remove the requirement in Rule 313.23 that the opinion of counsel submitted to the Exchange at the time the corporation applies for approval under Rule 313.20 state the extent to which the corporation has made the following prohibitions legally effective: The prohibition on declaring or paying a dividend that impairs the capital of the corporation and the prohibition on distributing assets to any stockholder unless the value of the corporate assets remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital. Rule 313.23 would continue to prohibit corporation members from declaring or paying dividends or distributing corporate assets that impair the corporation's capital, and member corporations would not be relieved of the obligation to monitor and enforce these prohibitions. The Exchange believes that requiring these representations in a separate legal opinion is redundant and serves no necessary regulatory or other purpose.[12]

Finally, the Exchange proposes to make certain miscellaneous amendments to Rule 313. Specifically, the Exchange proposes to replace outdated references to ''Regulation and Surveillance'' with ''the Exchange'' in Rules 313.10 and 313.20.[13] Similarly, the Exchange proposes to replace outdated references to ''photostatic'' copies in Rules 313.10 and 313.20 in connection with the submission of documents to the Exchange and replace them with ''electronically or mechanically reproduced.''

As noted above, the Commission received only one comment on the proposed rule change.[14] The comment expressed the view that the proposed rule change was a ''good idea'' but did not elaborate.

III. Discussion and Commission Findings

After carefully considering the proposal and the one comment submitted, 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.[15] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[16] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 agrees with the Exchange that adding LLCs to the list of eligible member organizations would remove impediments to and perfect the mechanism of a free and open market and a national market system by expanding the types of organizational forms a member organization may take. The Exchange also believes that permitting LLCs to become member organizations subject to the same restrictions and requirements currently applicable to corporations and partnerships also protects investors and the public interest by holding LLCs to the same high standards.

In addition, permitting non-United States-based registered broker-dealers that are members of FINRA or another registered securities exchange and that do not have their principal place of business in the United States to become Exchange member organizations would remove impediments to and perfect the mechanism of a free and open market by removing geographic restrictions on Exchange membership that are not required by FINRA or other exchanges. Broadening the Exchange membership pool by facilitating the participation of additional foreign-based U.S. registered broker-dealers would benefit investors and the public interest by increasing market participation and depth at the Exchange. Moreover, adoption of specific requirements for foreign members that do not maintain an office in the United States based on NASD Rule 1090 would further assure that foreign Exchange members, once approved, remain subject to regulatory examination and jurisdiction.

In addition, updating the Exchange's rules to remove requirements that the Exchange believes are redundant—that a member firm's partnership articles provide that capital withdrawals by partners cannot be made without the prior written approval of the Exchange, that prospective member corporations submit an opinion of counsel reciting facts contained in its public filings, and that certain prohibitions have been made legally effective—would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that potential member organizations, persons subject to the Exchange's jurisdiction, regulators, and

[11] *See also infra* note 12.

[12] FINRA Rule 4110 (Capital Compliance) contains similar prohibitions on capital withdrawals by FINRA members without requiring that the prohibitions be reflected in a firm's partnership articles or requiring a legal opinion that the member has made the prohibitions legally effective. *See* FINRA Rule 4110(c)(1) (''No equity capital of a member may be withdrawn for a period of one year from the date such equity capital is contributed, unless otherwise permitted by FINRA in writing.'').

[13] Under Rule 0—Equities, references to the Exchange also refer to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to a Regulatory Services Agreement (''RSA''). FINRA currently provides member application proceedings services to the Exchange pursuant to an RSA.

[14] *See supra* note 4.

[15] In approving the proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5).

the public could more easily navigate the Exchange's rulebook and better understand what obligations attach and when. Further, updating the Exchange's rules to remove what the Exchange considers redundant requirements also would protect investors as well as the public interest by providing transparency and reducing potential confusion regarding the Exchange membership process that may result from having what the Exchange characterizes as obsolete rules and outdated guidelines in the Exchange's rulebook. For the same reasons, updating the Exchange's rules to remove requirements that the Exchange considers outdated would remove impediments to and perfect the mechanism of a free and open market and a national market system and is equally designed to protect investors as well as the public interest.

Based on the foregoing, the Commission finds the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NYSEMKT–2014–97) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00579 Filed 1–15–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74040; File No. SR–NASDAQ–2015–003]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extranet Access Fee

January 13, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

NASDAQ proposes to add new NASDAQ Options Market (''NOM'')[3] Chapter XV, Section 12 to the Exchange's Options Pricing Schedule (''Pricing Schedule''), which includes description about the applicability of the Extranet Access Fee. This will conform the Exchange's Pricing Schedule to that of other markets.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.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 Exchange included statements concerning the purpose of and basis for 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 purpose of the proposal is to add new NOM Chapter XV, Section 12 entitled ''Extranet Access Fee'' to the Pricing Schedule, which includes description about the applicability of the Extranet Access Fee. This will conform the Exchange's Pricing Schedule to that of other markets.[4]

Specifically, the Exchange proposes to establish the Extranet Access Fee in proposed new NOM Chapter XV, Section 12 to indicate that certain non-Exchange Customer Premises Equipment (''CPE'') Products shall be assessed a monthly access fee of $1,000 per CPE. The Exchange also proposes to conform the Extranet Access Fee to that of another market, specifically NASDAQ Rule 7025, by also indicating that if an extranet provider uses multiple CPE Configurations[5] to provide market data feeds to any recipient the monthly fee shall apply to each such CPE Configuration; and that no Extranet Access Fee will be charged for connectivity to market data feeds containing only consolidated data. This proposal conforms the Extranet Access Fee in NOM Chapter XV, Section 12 to the equivalent fee in NASDAQ Rule 7025.

The Extranet Access Fee was introduced a decade ago on NASDAQ Rule 7025 as an equity fee.[6] The Extranet Access Fee was introduced about five years ago in on BX and about year ago on PSX.[7] By this proposal, the Exchange normalizes the cost and structure of its Extranet Access Fee on NOM to that of the equivalent decade-old NASDAQ fee.[8]

Proposed NOM Chapter XV, Section 12 indicates the same fee as NASDAQ Rule 7025, namely $1,000 per CPE Configuration, and adds verbatim language from NASDAQ Rule 7025 that explains the application of the fee.[9] As proposed, NOM Chapter XV, Section 12 will read as follows: ''Extranet providers that establish a connection with Nasdaq to offer direct access connectivity to market data feeds shall be assessed a monthly access fee of $1,000 per

[3] NOM is a facility of NASDAQ.

[4] The Exchange, NASDAQ OMX PHLX LLC (''Phlx''), and NASDAQ OMX BX, Inc. (''BX'') are self-regulatory organizations (''SROs'') that are wholly owned subsidiaries of The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). The Exchange, NOM (a facility of the Exchange), BX, BX Options (a facility of BX), Phlx, and PSX (a facility of Phlx) (together with the Exchange known as the ''NASDAQ Markets''), are independently filing proposals to conform their respective Extranet Access Fee rules to NASDAQ Rule 7025.

[5] As defined in proposed NOM Chapter XV, Section 12, a ''Customer Premises Equipment Configuration'' means any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to Nasdaq market data feeds to a recipient's site.

[6] *See* Securities Exchange Act Release Nos. 50483 (October 1, 2004), 69 FR 60448 (October 8, 2004) (SR–NASD–2004–118) (establishing the Extranet Access Fee on NASDAQ); and 71199 (December 30, 2013), 79 FR 686 (January 6, 2014) (SR–NASD [sic]–2013–159) (notice of filing and immediate effectiveness increasing the Extranet Access Fee to $1,000).

[7] *See* Securities Exchange Act Release Nos. 59615 (March 20, 2009), 74 FR 14604 (March 31, 2009) (SR–BX–2009–005) (establishing the Extranet Access Fee on BX); and 71841 (April 1, 2014), 79 FR 19129 (April 7, 2014) (SR–BX–2014–015) (notice of filing and immediate effectiveness describing that the Extranet Access Fee is $750). *See also* Securities Exchange Act Release No. 71236 (January 6, 2014), 79 FR 1906 (January 10, 2014) (SR–Phlx–2014–01) (notice of filing and immediate effectiveness establishing the Extranet Access Fee on PSX, and describing that no fee is charged at the time of the filing).

[8] As noted, the NASDAQ Markets are independently filing proposals to conform their respective Extranet Access Fee.

[9] However, the proposed Section 12 language does not, because it deals with options, indicate that consolidated data includes data disseminated by the UTP SIP (as noted in NASDAQ Rule 7025).