

benefits investors because they receive better prices and because it lowers volatility in the options market. For these reasons, the Exchange does not believe this proposal imposes an undue burden on inter-market competition because other exchanges offer the same functionality.

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

No written comments were either solicited or received.

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)(iii) of the Act¹⁵ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁶

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-Phlx-2016-23 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-Phlx-2016-23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2016-23, and should be submitted on or before March 24, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016-04636 Filed 3-2-16; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Monday, March 7, 2016, at 3:30 p.m., in the Auditorium (L-002) at the Commission's headquarters building, to

¹⁷ 17 CFR 200.30-3(a)(12).

hear oral argument in an appeal from an initial decision of an administrative law judge by respondents J.S. Oliver Capital Management, L.P. ("J.S. Oliver"), and Ian O. Mausner ("Mausner").

On August 5, 2014, the law judge found that, beginning in 2008, J.S. Oliver, a registered investment adviser, and Mausner, its principal, violated antifraud provisions of the securities laws by cherry picking profitable trades for favored accounts and by failing to disclose uses of soft dollar commissions to their clients. The initial decision also found related compliance and recordkeeping violations. For their violations, the law judge barred Mausner from the securities industry, revoked J.S. Oliver's investment adviser registration, issued cease-and-desist orders against them, and ordered respondents to disgorge \$1,376,440. The law judge also imposed civil money penalties of \$3,040,000 on Mausner and \$14,975,000 on J.S. Oliver.

Respondents appealed the civil money penalties imposed in the initial decision. The oral argument is likely to address what penalties, if any, are appropriate in the public interest. Also likely to be considered at oral argument is whether these administrative proceedings violate the U.S. Constitution.

For further information, please contact the Office of the Secretary at (202) 551-5400.

Dated: February 29, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016-04792 Filed 3-1-16; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77247; File No. SR-ISE Gemini-2015-17]

Self-Regulatory Organizations; ISE Gemini, LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Rule 804(g)

February 26, 2016.

I. Introduction

On November 12, 2015, the ISE Gemini, LLC ("ISE Gemini" or the "Exchange") 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

¹ 15 U.S.C. 78s(b)(1).

¹⁵ 15 U.S.C. 78s(b)(3)(a)(iii).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give 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. The Exchange has satisfied this requirement.

thereunder,² a proposed rule change to require Clearing Member³ approval for a market maker to resume trading after the activation of a market-wide speed bump under ISE Gemini Rule 804(g). The proposed rule change was published for comment in the **Federal Register** on November 30, 2015.⁴ On January 13, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to February 28, 2016.⁵ The Commission did not receive any comments on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposal

Pursuant to ISE Gemini Rule 804(g)(1), the Exchange requires market makers⁷ to provide parameters according to which the Exchange will automatically remove a market maker's quotations in all series of an options class. Additionally, the Exchange requires market makers to provide a market-wide parameter according to which the Exchange will automatically remove a market maker's quotes in *all* classes when, during a time period established by the market maker, the total number of quote removal events (or "curtailment events") specified in Rule 804(g)(1) exceed such specified market-wide parameter.⁸ The latter market-wide risk management functionality is known as a "market-wide speed bump" and is available for quotes only on ISE Gemini or across both ISE Gemini and ISE Gemini's affiliated exchange, International Securities Exchange, LLC.⁹

Currently, if ISE Gemini's trading system removes all of a market maker's quotes because a market-wide speed

bump is triggered, the market maker may re-enter the market and resume trading upon notification to the Exchange's Market Operations.¹⁰ The Exchange now proposes to amend ISE Gemini Rule 804(g)(2) to require Clearing Member approval before a market maker can resume trading.¹¹ Specifically, following a market-wide speed bump, the proposed rule requires a market maker to notify its Clearing Member(s) when it is ready to resume trading and requires each applicable Clearing Member to inform the Exchange directly when its authorization has been given for the market maker to resume trading.¹² In order to "facilitate a better response time" from Clearing Members, so that a market maker can re-enter the market, the proposal also allows Exchange staff to notify Clearing Member(s) when a market maker's quotes have been removed pursuant to the market-wide speed bump.¹³

The Exchange believes that it is appropriate to require Clearing Member approval before a market maker can re-enter the market after a market-wide speed bump because the Clearing Member guarantees the market maker's trades and bears the ultimate financial risk associated with those transactions. The Exchange notes that, while not all market makers are Clearing Members, all market makers require a Clearing Member's consent to clear transactions on their behalf in order to conduct business on the Exchange.¹⁴ According to the Exchange, the proposed rule change will permit Clearing Members to better monitor and manage the potential risks assumed by a market maker and provide Clearing Members with greater control and flexibility over their risk tolerance and exposure.¹⁵

III. Proceedings To Determine Whether To Approve or Disapprove SR-ISE Gemini-2015-17 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section

19(b)(2)(B) of the Act¹⁶ to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings because the proposal raises important issues that warrant further public comment and Commission consideration. Specifically, the Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with Section 6(b)(5) of the Act,¹⁷ which requires that the rules of a national securities exchange be designed, among other things, 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.

Under ISE Gemini's current rules, a market maker must enter continuous quotations for the options classes to which it is appointed.¹⁸ In return, the market maker receives certain benefits, including participation entitlements¹⁹ and an exception from the prohibition in Section 11(a) of the Act.²⁰ As the Commission has stated in the past, a market maker must be subject to sufficient and commensurate affirmative obligations, including the obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis, to justify favorable

² 17 CFR 240.19b-4.

³ A "Clearing Member" is a Member that is self-clearing or an Electronic Access Member that clears transactions for other members of the Exchange. See ISE Gemini Rule 100(a)(9). An "Electronic Access Member" is an Exchange Member that is approved to exercise trading privileges associated with EAM Rights. See Article XIII, Section 13.1(j) of the Constitution of ISE Gemini.

⁴ See Securities Exchange Act Release No. 76505 (November 23, 2015), 80 FR 74824 (November 30, 2015) ("Notice").

⁵ See Securities Exchange Act Release No. 76894 (January 13, 2016), 81 FR 3218 (January 20, 2016).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ ISE Gemini has two categories of market makers: Primary Market Makers ("PMMs") and Competitive Market Makers ("CMMs"). A PMM is appointed to each options class traded on the Exchange but a CMM may or may not be appointed to each such options class. See ISE Gemini Rule 802.

⁸ See ISE Gemini Rule 804(g)(2).

⁹ *Id.*

¹⁰ See Notice, *supra* note 4, at 74824.

¹¹ See proposed Rule 804(g)(2).

¹² See *id.*

¹³ See *id.*

¹⁴ Each market maker authorized to trade on the Exchange must obtain from a Clearing Member a "Market Maker Letter of Guarantee" wherein the Clearing Member accepts financial responsibility for all Exchange transactions made by the market maker. See ISE Gemini Rule 808.

¹⁵ See Notice, *supra* note 4, at 74825. Under ISE Gemini's current rules, the Exchange may share any Member-designated risk settings in the trading system with the Clearing Member that clears transactions on behalf of the Member. See ISE Gemini Rule 706(a).

¹⁶ 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. See *id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. See *id.*

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ See ISE Gemini Rule 804(e).

¹⁹ See, e.g., ISE Gemini Rule 713.

²⁰ 15 U.S.C. 78k(a).

treatment.²¹ As discussed above, however, the Exchange now proposes to amend ISE Gemini Rule 804(g) to require Clearing Member approval before a market maker can resume trading after triggering a market-wide speed bump.

The Exchange justifies the change as appropriate because, “[w]hile in some cases this may result in a minimal delay for a market maker that wants to reenter the market quickly following a market-wide speed bump, the Exchange believes that Clearing Member approval . . . ensure[s] that the market maker does not prematurely enter the market without adequate safeguards . . .”²² The Exchange, however, does not provide any basis for its statement that the proposed rule would result in only a “minimal delay” for a market maker seeking to resume quoting. Moreover, the Exchange does not address how the proposal impacts the continuous quoting obligations of market makers. The Commission accordingly believes the proposed rule change raises questions regarding the ability of market makers to meet their quoting obligations and, therefore, whether the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Sections 6(b)(5)²³ or any other provision of the Act, or the rules and regulations thereunder. Although there does not appear to be any issue relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,²⁴ any request

for an opportunity to make an oral presentation.²⁵

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by March 24, 2016. Any person who wishes to file a rebuttal to any other person’s submission must file that rebuttal by April 7, 2016. In light of the concerns raised by the proposed rule change, as discussed above, the Commission invites additional comment on the proposed rule change as the Commission continues its analysis of the proposed rule change’s consistency with Sections 6(b)(5) and 6(b)(8),²⁶ or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange’s statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change.

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-ISE Gemini-2015-17 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-ISE Gemini-2015-17. 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE Gemini-2015-17 and should be submitted by March 24, 2016. Rebuttal comments should be submitted by April 7, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Robert W. Errett,
Deputy Secretary.

[FR Doc. 2016-04638 Filed 3-2-16; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77241; File No. SR-NYSEMKY-2016-30]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting Investigation, Disciplinary, Sanction, and Other Procedural Rules Modeled on the Rules of the New York Stock Exchange LLC and Certain Conforming and Technical Changes

February 26, 2016.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on February 19, 2016, NYSE MKT LLC (“Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²¹ See, e.g., Securities Exchange Act Release No. 68341 (December 3, 2012), 77 FR 73065, 73076 (December 7, 2012) (approving the application of Miami International Securities Exchange, LLC for registration as a national securities exchange); Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (approving the application of Topaz Exchange, LLC for registration as a national securities exchange); Securities Exchange Act Release No. 76998 (January 29, 2016), 81 FR 6066 (February 4, 2016) (approving the application of ISE Mercury, LLC for registration as a national securities exchange).

²² See Notice, *supra* note 4, at 74825.

²³ 15 U.S.C. 78f(b)(5).

²⁴ 17 CFR 240.19b-4.

²⁵ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

²⁶ 15 U.S.C. 78f(b)(5), (b)(8).

²⁷ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.