SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76907; File No. SR–NYSEMKT–2016–07]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 132.30(9)—Equities To Conform the Exchange's Rules to Industry-Wide Standards for Recording the Capacity in Which a Member Organization Executes a Transaction

January 14, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 11, 2016, 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 Rule 132.30(9)—Equities to conform the Exchange's rules to industry-wide standards for recording the capacity in which a member organization executes a transaction. The proposed rule change is available on the Exchange's Web site at *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.

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange proposes to amend Supplementary Material .30 of Rule 132—Equities (''Rule 132'') to conform the Exchange's rules to industry-wide standards for recording the capacity in which a member organization executes a transaction. To effect this change, the Exchange proposes to eliminate the current requirement to identify the account for which an order was executed and require instead that clearing members and member organizations submit account type indicators (''ATI'') reflecting the capacity in which the member organization executed a transaction (*e.g.,* agency, principal or riskless principal). The Exchange believes that the proposed rule change would align the Exchange's rules with industry-wide conventions focusing on the capacity in which a broker-dealer acts in effecting a transaction and, by eliminating the complex set of ATIs developed over the years, significantly simplify order entry on the Exchange.

Background

Rule 132 requires clearing member organizations submitting transactions to comparison to include the audit trail data elements set forth in Supplementary Material .30. Rule 132.30(9) requires that all orders submitted to the Exchange include specified trade data elements, including ''[w]hether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization.'' The Exchange's affiliate, New York Stock Exchange LLC (''NYSE''), which has the same rule,[4] has periodically published guidance regarding the ATIs that can be used to satisfy this requirement.[5] ATIs are included as part of the audit trail data reported for each transaction on the Exchange. The Exchange also uses ATIs to capture program trade information[6] for those portions of the program trades that are submitted to and executed on the Exchange. In connection with this proposed rule change, the Exchange proposes to retire the unique ATIs used to capture program trading information.[7]

Proposed Rule Change

The Exchange proposes to amend the current requirement in subsection (9) of Rule 132.30 that clearing member organizations identify whether the account for which an order was executed was that of a member or member organization or of a non-member or non-member organization. The current requirement can be satisfied by entering the appropriate ATI from a list of ATIs that have evolved over the past 30 years.[8]

In place of this cumbersome process, the Exchange proposes to require member organizations to identify the capacity in which the member organization executed the transaction as follows: agency, principal or riskless principal.[9] The ''principal'' category would include proprietary trades by a member on the trading Floor relating to the member's error account pursuant to Rule 134—Equities.[10]

[4] *See* NYSE Rule 132.30(9). The NYSE has filed to amend its rule relating to ATIs to conform to industry-wide standards for recording the capacity in which a member organization executes a transaction. *See* SR–NYSE–2016–07 (''NYSE ATI Filing'').

[5] *See, e.g.,* Information Memos 85–37 (Nov. 12, 1985); 88–29 (Oct. 19, 1988); 92–34 (Nov. 13, 1992); 96–36 (Dec. 5, 1996); 02–59 (Dec. 17, 2002); 09–31 (June 24, 2009); 12–25 (October 9, 2012); 14–04 (January 30, 2014). The current list contains 24 distinct ATIs.

[6] ''Program Trading'' means either (1) index arbitrage, or (2) any trading strategy involving the related purchase or sale of a basket or group of 15 or more stocks. *See* Rule 7410(m)—Equities.

[7] *See* NYSE ATI Filing, *supra* note 3. Prior to 2009, NYSE member organizations reported program trading activity to the NYSE via the Daily Program Trading Report (''DPTR''). Following decommissioning of the DPTR requirement in July 2009, the NYSE has used ATI data to report program trading statistics to the Securities and Exchange Commission (''Commission'') and the public. *See* Securities Exchange Act Release No. 60179 (June 26, 2009), 74 FR 31786, 31786–87 (July 2, 2009) (SR–NYSE–2009–61). Unlike the NYSE, the Exchange does not have a requirement to provide weekly statistics regarding program trading activity to either the Commission or the public. In addition, the Exchange did not adopt the DPTR requirement and uses ATIs to capture program trade information.

[8] *See* note 5, *supra.*

[9] In general, the term ''capacity'' refers to whether a broker-dealer acts as agent, *i.e.,* directly on behalf of a customer, or whether the broker-dealer acts as principal, *i.e.,* for its own account, in a transaction. A riskless principal transaction is one where a broker-dealer receives a customer order and then immediately executes an identical order in the marketplace, while taking on the role of principal, in order to fill the customer order pursuant to Rule 5320—Equities.

[10] Rule 134—Equities requires a member or member organization who acquires or assumes a security position resulting from an error transaction to clear such error transaction in the member's or member organization's error account, or in the error account established for a group of members. Rule 123.22—Equities further requires members to enter orders executed to offset transactions made in error into an electronic system and sends a copy of such order to an electronic system on the Floor within 60 seconds of execution. *See also* Rule 123(e)—Equities (defining system entry). This type of proprietary trade is currently identified by the ''Q'' account type indicator, which would be retained to identify these trading Floor-based executions.

By requiring member organizations to identify the capacity in which a broker-dealer enters an order, the Exchange would be harmonizing its order entry requirements with those of other national securities exchanges and the NYSE.[11] The proposed change would also simplify the order entry process at the Exchange and eliminate the requirement for member organizations to use order entry requirements unique to the Exchange, thereby reducing complexity in the marketplace. This proposed amendment would not alter a member organization's obligation to meet order audit trail system requirements, as set forth in the Rule 7400 Series—Equities.

The Exchange will publish an Information Memo advising member organizations of the proposed change that will provide guidance of which ATIs should be submitted in connection with agency, principal, or riskless principal capacity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system because it would provide greater harmonization between order entry on the Exchange and other marketplaces, resulting in greater uniformity and more efficient order entry to enable member organizations to use the same order-market conventions across all equities markets. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 it is designed to provide greater harmonization between Exchange and other markets in the marking of orders, resulting in less burdensome and more efficient order entry.

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

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

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] 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 and Rule 19b–4(f)(6)(iii) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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)[19] 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*. Please include File Number SR–NYSEMKT–2016–07 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–2016–07. 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–NYSEMKT–2016–07 and should be

[11] *See, e.g.,* BATS Exchange, Inc. (''BATS'') Rule 11.21; BATS Y-Exchange, Inc. (''BATS–Y'') Rule 11.21; EDGA Exchange, Inc. (''EDGA'') Rule 11.5; EDGX Exchange, Inc. Rule 11.5; and NASDAQ Stock Market LLC (''NASDAQ'') Rule 4611(a)(6).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] In addition, Rule 19b–4(f)(6)(iii) 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.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] 15 U.S.C. 78s(b)(2)(B).

submitted on or before February 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01057 Filed 1–20–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76908; File No. SR–FINRA–2015–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Amend FINRA Rule 4210 (Margin Requirements) To Establish Margin Requirements for the TBA Market, as Modified by Partial Amendment No. 1

January 14, 2016.

I. Introduction

On October 6, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 4210 (Margin Requirements) to establish margin requirements for covered agency transactions, also referred to, for purposes of this proposed rule change, as the To Be Announced (''TBA'') market.

The proposed rule change was published for comment in the **Federal Register** on October 20, 2015.[3] On November 10, 2015, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to January 15, 2016. The Commission received 109 comment letters, [4] which include 50 Type A comment letters and four Type B comment letters in response to the proposed rule change. On January 13, 2016, FINRA responded to the comments and filed Partial Amendment No. 1 to the proposal.[5] The Commission is publishing this order to solicit comments on Partial Amendment No. 1 from interested persons and to institute proceedings pursuant to Exchange Act Section 19(b)(2)(B) [6] to determine whether to approve or disapprove the proposed rule change, as modified by Partial Amendment No. 1.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, not does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input on the proposed rule change, as modified by Partial Amendment No. 1, and on the issues presented by the proposal.

II. Description of the Proposed Rule Change [7]

In its filing, FINRA proposed amendments to FINRA Rule 4210 (Margin Requirements) to establish requirements for: (1) TBA transactions,[8]

[20] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 76148 (Oct. 14, 2015), 80 FR 63603 (Oct. 20, 2015) (File No. SR–FINRA–2015–036) (''Notice'').

[4] *See* Letters from Margaret Allen, AGM Financial, dated November 10, 2015 (''AGM Letter''); Paul J. Barrese, Sandler O'Neill & Partners, L.P., dated November 10, 2015 (''Sandler O'Neill Letter''); Doug Bibby and Doug Culkin, National Multifamily Housing Council and National Apartment Association, dated November 10, 2015 (''NMHC/NAA Letter''); David W. Blass, Investment Company Institute, dated November 9, 2015 (''ICI Letter''); Robert Cahn, Prudential Mortgage Capital Company, LLC, dated November 10, 2015 (''Prudential Letter''); James M. Cain, Sutherland Asbill & Brennan LLP (on behalf of the Federal Home Loan Banks), dated November 10, 2015 (''Sutherland Letter''); Timothy W. Cameron, Esq. and Laura Martin, Securities Industry and Financial Markets Association, Asset Management Group, dated November 10, 2015 (''SIFMA AMG Letter''); Jonathan S. Camps, Love Funding, dated November 9, 2015 (''Love Funding Letter''); Richard A. Carlson, Davis-Penn Mortgage Co., dated November 9, 2015 (''Davis-Penn 1 Letter''); Michael S. Cordes, Columbia National Real Estate Finance, LLC, dated November 9, 2015 (''Columbia Letter''); Carl E. Corrado, Great Lakes Financial Group, LP, dated January 4, 2016 (''Great Lakes Letter''); Daniel R. Crain, Crain Mortgage Group, LLC, dated November 6, 2015 (''Crain Letter''); James F. Croft, Red Mortgage Capital, LLC, dated November 10, 2015 (''Red Mortgage Letter''); Dan Darilek, Davis-Penn Mortgage Co., dated November 9, 2015 (''Davis-Penn 2 Letter''); Jayson F. Donaldson, NorthMarq Capital Finance, L.L.C, dated November 10, 2015 (''NorthMarq Letter''); Robert B. Engel, CoBank, ACB (on behalf of the Farm Credit Banks), dated November 10, 2015 (''CoBank Letter''); Robert M. Fine, Brean Capital, LLC, dated November 10, 2015 (''Brean Capital 1 Letter''); Tari Flannery, M&T Realty Capital Corporation, dated November 9, 2015 (''M&T Realty Letter''); Bernard P. Gawley, The Ziegler Financing Corporation, dated November 10, 2015 (''Ziegler Letter''); John R. Gidman, Association of Institutional INVESTORS, dated November 10, 2015 (''AII Letter''); Keith J. Gloeckl, Churchill Mortgage Investment, LLC, dated November 6, 2015 (''Churchill Letter''); Eileen Grey, Mortgage Bankers Association & Others, dated October 29, 2015 (''MBA & Others 1 Letter''); Mortgage Bankers Association & Others (including American Seniors Housing Association), dated November 10, 2015 (''MBA & Others 2 Letter''); Tyler Griffin, Dwight Capital, dated November 10, 2015 (''Dwight Letter''); Pete Hodo, III, Highland Commercial Mortgage, dated November 5, 2015 (''Highland 1 Letter''); Robert H. Huntington, Credit Suisse Securities (USA) LLC, dated November 10, 2015 (''Credit Suisse Letter''); Matthew Kane, Centennial Mortgage, Inc., dated November 9, 2015 (''Centennial Letter''); Christopher B. Killian, Securities Industry and Financial Markets Association, dated November 10, 2015 (''SIFMA Letter''); Robert T. Kirkwood, Lancaster Pollard Holdings, LLC, dated November 10, 2015 (''Lancaster Letter''); Tony Love, Forest City Capital Corporation, dated November 5, 2015 (''Forest City 1 Letter''); Tony Love, Forest City Capital Corporation, dated November 10, 2015 (''Forest City 2 Letter''); Anthony Luzzi, Sims Mortgage Funding, Inc., dated November 9, 2015 (''Sims Mortgage Letter''); Diane N. Marshall, Prairie Mortgage Company, dated November 10, 2015 (''Prairie Mortgage Letter''); Matrix Applications, LLC, dated November 10, 2015 (''Matrix Letter''); Douglas I. McCree, CMB, First Housing, dated November 10, 2015 (''First Housing Letter''); Michael McRoberts, DUS Peer Group, dated November 2, 2015 (''DUS Letter''); Chris Melton, Coastal Securities, dated November 9, 2015 (''Coastal Letter''); John O. Moore Jr., Highland Commercial Mortgage, dated November 6, 2015 (''Highland 2 Letter''); Dennis G. Morton, AJM First Capital, LLC, dated November 10, 2015 (''AJM Letter''); Michael Nicholas, Bond Dealers of America, dated November 10, 2015 (''BDA Letter''); Lee Oller, Draper and Kramer, Incorporated, dated November 10, 2015 (''Draper Letter''); Roderick D. Owens, Committee on Healthcare Financing, dated November 6, 2015 (''CHF Letter''); Jose A. Perez, Perez, dated November 9, 2015 (''Perez Letter''); David F. Perry, Century Health Capital, Inc., dated November 9, 2015 (''Century Letter''); Deborah Rogan, Bellwether Enterprise Real Estate Capital, LLC, dated November 10, 2015 (''Bellwether Letter''); Bruce Sandweiss, Gershman Mortgage, dated November 18, 2015 (''Gershman 1 Letter''); Craig Singer and James Hussey, RICHMAC Funding LLC, dated November 9, 2015 (''Richmac Letter''); David H. Stevens, Mortgage Bankers Association, dated November 10, 2015 (''MBA Letter''); Stephen P. Theobald, Walker & Dunlop, LLC, dated November 10, 2015 (''W&D Letter''); Robert Tirschwell, Brean Capital, LLC, dated November 10, 2015 (''Brean Capital 2 Letter''); Mark C. Unangst, Gershman Mortgage, dated November 23, 2015 (''Gershman 2 Letter''); Charles M. Weber, Robert W. Baird & Co. Incorporated, dated November 10, 2015 (''Robert Baird Letter''); Steve Wendel, CBRE, Inc., dated November 10, 2015 (''CBRE Letter''); Carl B. Wilkerson, American Council of Life Insurers, dated November 10, 2015 (''ACLI Letter''); David H. Stevens, Mortgage Bankers Association, dated January 11, 2016 (''MBA Supplemental Letter''). The Type A and B form letters generally contain language opposing the inclusion of multifamily housing and project loan securities within the scope of the proposed rule change. The Commission staff also participated in numerous meetings and conference calls with some commenters and other market participants.

[5] *See* Partial Amendment No. 1, dated January 13, 2016 (''Partial Amendment No. 1''). FINRA's responses to comments received and proposed amendments are included in Partial Amendment No. 1. The text of Partial Amendment No. 1 is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The proposed rule change, as described in this Item II, is excerpted, in part, from the Notice, which was substantially prepared by FINRA. *See supra* note 3.

[8] *See* FINRA Rule 6710(u) defines TBA to mean a transaction in an Agency Pass-Through Mortgage-