For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79213; File No. SR–NYSEMKT–2016–98]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .05 to Rule 980NY

November 1, 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 October 25, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Commentary .05 to Rule 980NY(Electronic Complex Order Trading) to enhance the price protection filters applicable to electronically entered Complex Orders. 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.

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 Commentary .05 to Rule 980NY to enhance the Exchange's price protection filters applicable to electronically entered Complex Orders,[4] including by clarifying how the functionality operates and expanding its application, as described below.

Clarifying the Description of the Filter

Commentary .05 to Rule 980NY currently sets forth the Price Protection Filter (the ''Filter'') applicable to each incoming ''Electronic Complex Order'' (or ''ECO'').[5] The Filter automatically rejects incoming ECOs with a price that deviates from the current market by the Specified Amount,[6] which varies depending on the smallest MPV of any leg in the ECO.[7]

First, the Exchange proposes to modify its description of how the Filter operates to make it easier for market participants to understand. Commentary .05 to Rule 980NY currently describes the Filter as rejecting an ECO if ''the net debit/credit limit price of the order is greater (less) than the derived net debit/credit NBBO for the contra-side of that same strategy by an amount specified by the Exchange ('Specified Amount').'' The Exchange proposes to replace references to the ''derived contra-side net debit/credit NBBO'' with the ''contra-side Complex NBBO,'' as the Exchange has defined Complex NBBO since implementing the Filter.[8] This proposed modification would not affect the operation of the rule. Rather, the Exchange believes this change would reduce redundancy and add internal consistency to Exchange rules. Further, regarding the description of how the Filter operates, the Exchange proposes to provide that the Filter would reject an ECO back to the submitting ATP Holder if the sum of the following would be less than zero ($0.00):

(i) The net debit (credit) limit price of the order,

(ii) the contra-side Complex NBBO for that same Complex Order, and

(iii) the Specified Amount.[9]

The proposed modification does not alter how the Filter is applied. The Filter would continue to help prevent the execution of aggressively-priced ECOs (*i.e.,* priced so far away from the prevailing contra-side NBBO market for the same strategy) that could cause significant price dislocation in the market. The Exchange would continue to apply the Filter to help ensure that market participants do not receive an execution at a price significantly inferior to the contra-side NBBO. However, the proposed modification would add specificity and more clearly convey the operation of the Filter. The Exchange believes this proposed change would add clarity and transparency to the rule text and enable market participants to better understand the operation of the Filter, and the calculation that the Exchange applies to incoming ECOs without altering the operation of the Filter.

Second, the Exchange proposes to modify its explanation of how the Specified Amount may be adjusted based on the characteristics of the ECO. Currently, paragraphs (b)–(d) of Commentary .05 describe how the Filter ''will be applied by'' the Specified Amount, which Specified Amount is multiplied by the component of the leg ratio that the leg of the order

[13] 17 CFR 200.30–3(a)(12).

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

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

[3] 17 CFR 240.19b–4.

[4] Rule 900.3NY(e) defines a Complex Order as any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing particular investment strategy.

[5] Per Rule 980NY, an ECO is a Complex Order that has been entered into the NYSE Amex Options System (''System'') and routed to the Complex Matching Engine (''CME'') for possible execution. The CME is the mechanism in which ECOs are executed against each other or against individual quotes and orders in the Consolidated Book. ECOs that are not immediately executed by the CME are ranked in the Consolidated Book. *See* Rule 980NY(a).

[6] The Specified Amount is defined as: (i) .10 for orders where the smallest Minimum Price Variation (''MPV'') of any leg of the Electronic Complex Order is .01; (ii) .15 for orders where the smallest MPV of any leg of the Electronic Complex Order is .05; and.30 for orders where the smallest MPV of any leg of the Electronic Complex Order is .10. *See* Commentary .05 to Rule 980NY.

[7] *See* Commentary .05 to Rule 980NY(a). The Exchange notes that each ECO is entered into the System at a net debit (credit) price for the entire strategy and does not include specified prices for any single series component (''leg'') of the ECO. *See also* Securities and Exchange Act Release No. 70674 (October 11, 2013), 78 FR 62917 (October 22, 2013) (SR–NYSEMKT–2013–80) (Notice of filing, which describes the operation of the Filter) (herein referred to as the ''Original Release'').

[8] *See* Rule 900.2NY(41)(b) (defining Complex NBBO as ''the NBBO for a given complex order strategy as derived from the national best bid and national best offer for each individual component series of a Complex Order''). *See also* Securities and Exchange Act Release No. 73284 (October 1, 2014), 79 FR 60560 (October 7, 2014) (SR–NYSEMKT–2014–84) (Notice of filing and immediate effectiveness of proposed rule change to codify the term Complex NBBO).

[9] *See* proposed Commentary .05(a) to Rule 980NY.

represents.[10] The result is that the Specified Amount may change depending on the product of multiplying it by the component of the ECO ratio that the leg of the order represents, although the rule text does not explicitly state this fact.[11] The Exchange proposes to modify the rule text to make clear that the Specified Amount may be adjusted, which, in turn may affect how the Filter ''will be applied.'' As with the proposed modification to the description of how the Filter operates, this modification further clarifies (but does not alter) the operation of the Filter. The Filter would continue to prevent the execution of aggressively-priced ECOs that may cause significant price dislocation in the market. Specifically, the Exchange proposes to add new paragraph (b) to Commentary .05 to provide that ''[t]he Specified Amount may be adjusted based on the ratios and the MPVs of the legs of the [ECO].'' [12] The Exchange then proposes to renumber current paragraphs (b)–(d) of Commentary .05 to be sub-points (i)–(iii) to new paragraph (b) and to clarify in each sub-point how the Specified Amount will be adjusted.[13]

Current paragraph (b) to Commentary .05 provides that for ECOs ''that are entered on a 1x1 ratio, the Price Protection Filter will be applied by the Specified Amount (.10, .15, or .30),'' which, as noted above, means the Filter would be multiplied by the Specified Amount. In ECOs with a 1x1 ratio, the product of this multiplication would always result in .10, .15, or .30. Thus, the Exchange proposes to clarify this paragraph to provide that for ECOs ''that are entered on a 1x1 ratio, the Specified Amount is not adjusted (.10, .15, or .30).'' [14] The Exchange believes this proposed modification makes clear that the Specified Amount remains unadjusted for ECOs entered on a 1x1 ratio, which is consistent with the current rule text, but not explicitly stated.

In addition, current paragraph (c) to Commentary .05 provides that for ECOs ''that are entered on an uneven ratio (2x3 for example) where the MPV on all legs is the same, the Price Protection Filter will be applied by the Specified Amount multiplied by the smallest contract size leg of the ratio (.20, .30, or .60 on a 2x3 for example)''.[15] Rather than state that ''the Filter will be applied by the Specified Amount multiplied by the smallest contract size leg of the ratio,'' the Exchange proposes to clarify how the Specified Amount is adjusted, which is a more straightforward construction that the Exchange believes is easier to comprehend. Specifically, the Exchange proposes to clarify that for ECOs that are entered on an uneven ratio (2x3 for example) where the MPV on all legs is the same, ''the Specified Amount is adjusted by multiplying the component of the ratio represented by the smallest leg of the order by the Specified Amount (*i.e.,* .20 is the adjusted Specified Amount for a 2x3 Electronic Complex Order with an MPV of .01 on both legs because .20 (2 × .10) is less than .30 (3 × .10) for example).'' [16]

Further, current paragraph (d) to Commentary .05 provides that for ECOs ''that are entered on an uneven ratio where the MPV of the legs are not the same (2x3 ratio with a .10 MPV and .05 MPV for example), the Price Protection Filter will be applied by taking the lesser of; the Specified Amount applicable to the smallest size leg of the Electronic Complex Order multiplied by the contract size of that leg (.60 in this example), or the Specified Amount of the largest size leg of the Electronic Complex Order multiplied by the contract size of that leg (.45 in this example).'' [17] Utilizing the same calculation set forth in proposed paragraph (b)(ii) to Commentary .05, the Exchange likewise proposes to clarify how the Specified Amount is adjusted for ECOs that are entered on an uneven ratio where the MPV of the legs is not the same (a two-legged order with a 2x3 ratio where the first leg has a .10 MPV and the second leg has a .05 MPV for example). As proposed, ''the Specified Amount is equal to the smallest amount calculated by multiplying, for each leg of the order, the Specified Amount for the leg of the order by the component of the ratio represented by that leg of the order (*i.e.,* .45 is the adjusted Specified Amount in this example because .45 (3 × .15) is less than .60 (2 × .30).'' [18]

The Exchange believes that proposed paragraph (b) and sub-paragraphs (i)–(iii) clarify that the Specified Amount is adjusted based on the characteristics of the ECO, which is consistent with the current rule text but not stated explicitly. The Exchange believes this change, in turn, further clarifies (but does not alter) the operation of the Filter making it easier for market participants to understand.

To illustrate that the proposed modifications do not alter the operation of the Filter, the Exchange has applied the description of the Filter to the examples that the Exchange relied upon when the [sic] it introduced the Filter in 2013.[19]

Example #1: Proposed Rule 980NY(a),(b)

Jan 20 calls—NBBO 2.00–2.10
Jan 25 calls—NBBO 1.05–1.20

The Exchange receives an incoming ECO to buy Jan 20 calls and sell Jan 25 calls on a 1x1 ratio, with a net debit price of 1.25. All legs have an MPV of .05. In this case the contra-side Complex NBBO is offered at a net credit of 1.05 (this price is established by selling one Jan 20 for 2.10 and buying one Jan 25 for 1.05).

The ECO would be automatically rejected if the sum of the following is less than zero ($0.00):

(i) The net debit limit price of the order, in this case −1.25;

(ii) the contra-side Complex NBBO for that same Complex Order, in this case a net credit of 1.05;

(iii) and Specified Amount, in this case .15, as all legs have an MPV of .05.

The Filter would reject the ECO in this example back to the entering ATP holder because the sum is less than zero (−1.25 + 1.05 + .15 = −.05).[20]

Example #2: Proposed Rule 980NY(a),(b)(i)

Jan 20 calls—NBBO 5.00–5.30
Jan 25 calls—NBBO 2.10–2.20

The Exchange receives an incoming ECO to buy Jan 20 calls and sell Jan 25 calls on a 1x1 ratio, with a net debit price of 3.60. The leg markets have different MPVs—.05. and .10. In this case, the contra-side Complex NBBO is offered at a net credit of 3.20 (this price is established by selling one Jan 20 for 5.30 and buying one Jan 25 for 2.10).

The ECO would be automatically rejected if the sum of the following is less than zero ($0.00):

[10] *See* Commentary .05(b)–(d) to Rule 980NY.

[11] *See id. See also supra* note 7, Original Release 78 FR at 62919 (providing examples of how the Filter operates depending upon the leg ratio of the ECO).

[12] *See* proposed Commentary .05(b) to Rule 980NY.

[13] Consistent with this proposed change, the Exchange also proposes to redesignate paragraphs (e) and (f) of Commentary .05 to be paragraphs (c) and (d), respectively.

[14] *See* proposed Commentary .05(b)(i) to Rule 980NY.

[15] *See* Commentary .05(c) to Rule 980NY.

[16] *See* proposed Commentary .05(b)(ii) to Rule 980NY.

[17] *See* Commentary .05(c) to Rule 980NY.

[18] *See* proposed paragraph (b)(iii) of Commentary .05 to Rule 980NY.

[19] *See supra* note 7, Original Release, 78 FR at 62918–19 (setting froth [sic] five examples to illustrate the operation of the Filter).

[20] Per the Original Release, the ECO in this example was rejected by the Filter because the ''contra-side [Complex] NBBO of 1.05 is better than the limit price of the [ECO] by .20, which exceeds the Filter setting of .15.'' *See supra,* note 7, Original Release, 78 FR at 62918.

(i) The net debit limit price of the order, in this case −3.60;

(ii) the contra-side Complex NBBO for that same Complex Order, in this case a net credit of 3.20;

(iii) and Specified Amount, in this case .15 (*i.e.,* because the smallest MPV of any leg of the 1x1 ECO is .05; the other leg of the ECO has a larger MPV of .10).

The Exchange notes that, in this example, where the ECO is on a 1x1 ratio and the first leg has a .05 MPV and the second leg has a .10 MPV, the Specified Amount would be determined by the smallest MPV of any leg of the ECO. Thus, because the smallest MPV of this ECO is .05, the Specified Amount is .15 (as opposed to a Specified Amount of .30, which would be the Specified Amount if the smallest MPV of any leg of an ECO is .10). The Filter would reject the ECO in this example back to the entering ATP holder because the sum is less than zero (−3.60 + 3.20 + .15 = −.25).[21]

Example #3: Proposed Rule 980NY(a),(b)(i)

Jan 20 calls—NBBO 2.03–2.08
Jan 25 calls—NBBO 1.00–1.01

The Exchange receives an incoming Electronic Complex Order to sell Jan 20 calls and buy Jan 25 calls on a 1x1 ratio, with a net credit price of .90. All legs have the same MPV of .01: In this case the contra-side Complex NBBO market is priced at a net debit of 1.02 (this price is established by buying one Jan 20 for 2.03 and selling one Jan 25 for 1.01).

The ECO would be automatically rejected if the sum of the following is less than zero ($0.00):

(i) The net credit limit price of the order, in this case .90;

(ii) the contra-side Complex NBBO for that same Complex Order, in this case a net debit of −1.02;

(iii) and Specified Amount, in this case .10, because all legs have an MPV of .01.

The Filter would reject the ECO in this example back to the entering ATP holder because the sum is less than zero (.90 + (−1.02) + .10 = −.02).[22]

Example #4: Proposed Rule 980NY(a),(b)(ii)

Jan 20 calls—NBBO 2.03–2.08
Jan 25 calls—NBBO 1.00–1.02

The Exchange receives an incoming ECO to sell Jan 20 calls and buy Jan 25 calls, on a 2x3 ratio, with a net credit price of .75. All legs have the same MPV of .01. In this case the contra-side Complex NBBO market is priced at a net debit of 1.00 (this price is established by buying two Jan 20s for 2.03 each and selling three Jan 25s for 1.02 each (4.06–3.06 = 1.00)).

The ECO would be automatically rejected if the sum of the following is less than zero ($0.00):

(i) The net credit limit price of the order, in this case .75;

(ii) the contra-side Complex NBBO for that same Complex Order, in this case a net debit of −1.00;

(iii) and Specified Amount, in this case .20 (*i.e.,* .10 (as the MPV of both legs is .01) × 2 (the component of the ratio represented by the smallest leg of the order) = .20).

The Exchange notes that, in this example, where the ECO is on a 2x3 ratio and the MPVs on all legs is the same, the Specified Amount is adjusted by multiplying the component of the ratio represented by the smallest leg of the order by the Specified Amount (*i.e.,* .20 in this example where the MPV on both legs is .01 because .20 (2 × .10) is less than .30 (3 × .10).

The Filter would reject the ECO in this example back to the entering ATP holder because the sum is less than zero (.75 + (−1.00) + .20 = −.05).[23]

Example #5: Proposed Rule 980NY(a),(b)(iii)

Jan 20 calls—NBBO 4.10–4.20
Jan 25 calls—NBBO 1.90–2.00

The Exchange receives an incoming ECO to sell Jan 20 calls and buy Jan 25 calls, on a 2x3 ratio, with a net credit price of 1.50. The leg markets have different MPVs—.05. and .10, respectively. In this case the contra-side Complex NBBO market is priced at a net debit of 2.20 (this price is established by buying two Jan 20s for 4.10 each and selling three Jan 25s for 2.00 each (8.20 − 6.00 = 2.20)).

The ECO would be automatically rejected if the sum of the following is less than zero ($0.00):

(i) The net credit limit price of the order, in this case 1.50;

(ii) the contra-side Complex NBBO for that same Complex Order, in this case a net debit of −2.20;

(iii) and Specified Amount, in this case .45 (*i.e.,*.45 is equal to the smallest amount calculated by multiplying, for each leg of the order, the Specified Amount for the leg of the order by the component of the ratio represented by that leg of the order, which yields either .60 (2 × .30 = .60) or .45 (3 × .15 = .45)).

The Exchange notes that, in this example, where the ECO is on a 2x3 ratio and the MPV of the legs is not the same, the Specified Amount is equal to the smallest amount calculated by multiplying, for each leg of the order, the Specified Amount for the leg of the order by the component of the ratio represented by that leg of the order (*i.e.,* .45 is the adjusted Specified Amount in this example because .45 (3 × .15) is less than .60 (2 × .30)).

The Filer would reject this order back to the entering ATP holder because the sum is less than zero (1.50 + (−2.20 + .45 = −.25).[24]

Example #6: Proposed 980NY(a),(b)[25]

Jan 20 calls—NBBO 2.00–2.10

Jan 25 calls—NBBO 1.05–1.20

The Exchange receives an incoming ECO to buy Jan 20 calls and sell Jan 25 calls on a 1x1 ratio, with a net debit price of 1.19. All legs have an MPV of .05. In this case the contra-side Complex NBBO is offered at a net credit of 1.05 (this price is established by selling one Jan 20 for 2.10 and buying one Jan 25 for 1.05).

The ECO would be automatically rejected if the sum of the following is less than zero ($0.00):

(i) the net debit limit price of the order, in this case −1.19;

(ii) the contra-side Complex NBBO for that same Complex Order, in this case a net credit of 1.05;

(iii) and Specified Amount, in this case .15, as all legs have an MPV of .05.

The Filter would not reject the ECO in this example because the sum is zero or greater (−1.19 + 1.05 + .15 = .01).[26] The ECO would be sent to the CME for processing and potential execution.[27]

[21] Per the Original Release, the ECO in this example was rejected by the Filter because the ''contra-side [Complex] NBBO of 1.05 is better than the limit price of the [ECO] by .40, which exceeds the Filter setting of .15.'' *See supra,* note 7, Original Release, 78 FR at 62918.

[22] Per the Original Release, the ECO in this example was rejected by the Filter because the ''contra-side [Complex] NBBO of 1.02 is better than the limit price of the [ECO] by .12, which exceeds the Filter setting of .10.'' *See supra,* note 7, Original Release, 78 FR at 62919.

[23] Per the Original Release, the ECO in this example was rejected by the Filter because the ''contra-side [Complex] NBBO of 1.00 is better than the limit price of the [ECO] by .25, which exceeds the Filter setting of .20.'' *See supra,* note 7, Original Release, 78 FR at 62919.

[24] Per the Original Release, the ECO in this example was rejected by the Filter because the ''contra-side [Complex] NBBO of 2.20 is better than the limit price of the [ECO] by .70, which exceeds the Filter setting of .45.'' *See supra,* note 7, Original Release, 78 FR at 62919.

[25] The Exchange notes that Example #6 is new to this filing and was not included in the Original Release, as the Original Release did not include an example of an ECO that was not rejected by the Filter.

[26] Per the Original Release, the ECO in this example was rejected by the Filter because the ''contra-side [Complex] NBBO of 1.05 is better than the limit price of the [ECO] by .20, which exceeds the Filter setting of .15.'' *See supra,* note 7, Original Release, 78 FR at 62923.

[27] *See supra,* note 5 (citing Rule 980NY(a) regarding processing of incoming ECOs).

Extending the Operation of the Filter

The Exchange also proposes to modify paragraph (a) of Commentary .05 to Rule 980NY to expand the application of the Filter to ECOs received prior to the opening of trading or during a trading halt. The current Filter is applied only to those ECOs entered during Core Trading Hours.[28] As proposed, for each ECO received pre-open or during a trading halt, the Exchange would apply the Filter at the time all the individual component option series open or reopen, provided there is an NBBO market disseminated by OPRA for all individual component option series of the ECO. In this regard, the Exchange proposes to modify paragraph (e) of Commentary .05 of the Rule to remove reference to ''incoming'' and ''at the time the order is received by the Exchange,'' to signify that the Filter is being applied to ECOs received outside of Core Trading Hours.[29] Further, because ECOs received pre-open or during a halt cannot immediately execute, these ECOs would be placed in the Consolidated Book until the series opens or resumes trading, at which time the Filter would be applied before the ECO is eligible to trade.[30] Any ECOs that deviate from the current market by too great an amount, as set forth in the rule, would be canceled, as opposed to being immediately rejected upon receipt (as are ECOs received during Core Trading Hours).[31] The reason such ECOs would be cancelled (and not rejected) is because the CME would accept these orders and, once accepted but not immediately executed, they would be placed on the Consolidated Book until the individual component option series open or reopen.[32] The CME would not reject an ECO that it had previously accepted, and therefore such ECOs would be cancelled instead. The order sender would be notified of the cancellation. The proposed enhancement to the Filter is designed to provide the same level of protection to market participants who enter ECOs before the open or during a trading halt as is currently provided to ECOs received during Core Trading Hours. As proposed, the enhanced Filter would further assist the Exchange in preventing the execution of ECOs priced so far away from the prevailing contra-side NBBO market for the same strategy that the execution of such order could cause significant price dislocation in the market.

Additional Conforming Changes

Finally, the Exchange proposes to make several conforming changes to Rule 980NY(c)(i)(B) (Execution of Complex Orders at the Open), which are consistent with the proposal to incorporate the defined term Complex NBBO in proposed Commentary .05(a). First, the Exchange proposes to delete as duplicative the definition of the Complex NBBO that appears in Rule 980NY(c)(i)(B), as the term is now a defined in Rule 900.2NY(41)(b).[33] The Exchange also proposes to delete as extraneous the word ''derived,'' which precedes references to ''Complex NBBO.''[34] The Exchange notes that Rule 980NY(c)(i)(B) was updated to include the concept of the Complex NBBO before the Exchange codified this definition and the proposed changes would therefore streamline the rule text and remove redundancy from Exchange rules.[35]

Implementation

The Exchange will announce by Trader Update the implementation date of the proposed rule change to expand the application of the Filter to ECOs received prior to the opening of trading or during a trading halt.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[36] in general, and furthers the objectives of Section 6(b)(5) of the Act,[37] in particular, in that it is 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 Exchange believes that this proposed rule change would allow the Filter to continue to assist with the maintenance of fair and orderly market by helping to mitigate the risks associated with the execution of ECOs priced away from the current market by the Specified Amount, which protects investors from receiving potentially erroneous executions. In addition, the proposed modifications would add specificity and more clearly convey the operation of the Filter, which added clarity and transparency would enable market participants to better understand the operation of the Filter. Specifically, the proposal to modify existing rule text to more clearly state how the Filter is applied and to consistently incorporate the defined term ''Complex NBBO'' would remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest because such changes would reduce redundancy and add clarity, transparency and internal consistency to Exchange rules.

Further, the Exchange believes the proposal to make explicit that the Specified Amount is adjusted based on the characteristics of the ECO, which is consistent with the current rule text, would further clarify (without altering) the operation of the Filter making it easier for market participants to understand, which would protect investors and the public interest.

The proposal to extend the application of the Filter beyond ECOs entered during Core Trading Hours is designed to help maintain a fair and orderly market by providing market participants entering ECOs with additional protection from anomalous executions. Because the proposed Filter would apply to all ECOs, not just those entered during Core Trading Hours (absent a trading halt), the proposal would enhance the protection offered by the Filter and aid in mitigating the potential risks associated with the execution of any ECOs that are priced a Specified Amount away from the prevailing contra-side market. The proposed rule change would therefore remove impediments to and perfect the mechanism of a free and open market and national market system by ensuring that an existing price protection would be applicable to all ECOs, regardless of when they are entered.

[28] Rule 900.3NY(15) defines Core Trading Hours as the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange. An order received prior to the opening of trading would be outside of Core Trading Hours. Rule 953NY describes halts and suspensions of trading, which may occur during Core Trading Hours.

[29] *See* also proposed Commentary .05(e) to Rule 980NY. For internal consistency, the Exchange also proposes to refer to ''individual component option series'' in the proposed paragraph. *See id.*

[30] *See, e.g.,* Rule 980NY(a) (''[ECOs] that are not immediately executed by the CME are routed to the Consolidated Book'').

[31] *See* proposed Commentary .05(a) to Rule 980NY.

[32] *See supra* note 30.

[33] Specifically, the Exchange proposes to delete the following text from Rule 980NY(c)(i)(B): ''The derived Complex NBBO is calculated by using best prices for the individual leg markets comprising the Electronic Complex Order as disseminated by OPRA that when aggregated create a derived Complex NBBO for that same strategy The Exchange believes these changes would add clarity, transparency and internal consistency to Exchange rules.''

[34] *See* proposed Rule 980NY(c)(i)(B).

[35] *See* Securities and Exchange Act Release No. 72084 (May 2, 2014) 79 FR 26470(May 8, 2014) (SR–NYSEMKT–2014–42) (Notice of filing and immediate effectiveness of proposed rule change to adopt rules governing an opening auction process for ECOs, including reference to the ''Complex NBBO'').

[36] 15 U.S.C. 78f(b).

[37] 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange is proposing to enhance an existing price protection Filter to provide greater protections from potentially erroneous executions and potentially reduce the attendant risks of such executions to market participants. Therefore, the Exchange believes that the proposal should provide an incentive for market participants to enter executable interest in the CME that can help foster price discovery and transparency thereby benefiting all market participants. The proposal is structured to offer the same enhancement to all market participants, regardless of account type, and will not impose a competitive burden on any participant.

The Exchange does not believe that the proposed enhancement would impose a burden on competing options exchanges. Rather, the availability of this enhanced Filter may foster more competition. Specifically, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. When an exchange offers enhanced functionality that distinguishes it from the competition and participants find it useful, it has been the Exchange's experience that competing exchanges will move to adopt similar functionality. Thus, the Exchange believes that this type of competition amongst exchanges is beneficial to the market place as a whole as it can result in enhanced processes, functionality, and technologies.

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) of the Act [38] and Rule 19b–4(f)(6) thereunder.[39] 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.

A proposed rule change filed under Rule 19b–4(f)(6) [40] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[41] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. 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 believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would enable the Exchange to enhance an existing price protection Filter. Although the Exchange would cancel, as opposed to reject, an ECO received pre-open or during a halt that was deemed too aggressively priced by the Filter, the Exchange does not believe this operational distinction would prevent waiver of the operative delay. Rather, the Exchange believes that the proposed change would allow for the expansion of the Filter so that it would apply to ECOs submitted prior to the open of trading or during a trading halt when the individual component option series open or reopen. Thus, the Exchange believes that waiver of the operative delay would protect investors by enabling the Exchange to provide greater protections from potentially erroneous executions and potentially reduce the attendant risks of such executions to market participants. In addition, the Exchange could implement, without delay, the proposed clarifications to add transparency regarding how the Filter operates, including how the Specified Amount may be adjusted based on the characteristics of the ECO.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal will extend the existing price protection Filter, which currently applies only to ECOs received during Core Trading Hours, to ECOs received during the pre-open or during a trading halt. As noted above, the Filter is designed to protect investors from receiving anomalous or potentially erroneous executions. The proposal also provides for consistent use of defined terms in the Exchange's rules and clarifies the operation of the Filter, including the calculation of the Specified Amount, without altering the operation of the Filter. Accordingly, the Commission finds that waiving the 30-day operative delay is consistent with investors and the public interest and designates the proposal operative upon filing.[42]

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) [43] 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–2016–98 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–2016–98. This file number should be included on the subject line if email is used. To help the

[38] 15 U.S.C. 78s(b)(3)(A).

[39] 17 CFR 240.19b–4(f)(6). 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.

[40] 17 CFR 240.19b–4(f)(6).

[41] 17 CFR 240.19b–4(f)(6)(iii).

[42] 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. 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78s(b)(2)(B).

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–2016–98 and should be submitted on or before November 28, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Brent J. Fields,

Secretary.

[FR Doc. 2016–26795 Filed 11–4–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79212; File No. SR–OCC–2016–013]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning the Options Clearing Corporation's Margin Coverage During Times of Increase Volatility

November 1, 2016.

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 October 18, 2016, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC would modify the current process for systematically monitoring market conditions and performing adjustments to its margin coverage when current market volatility increases beyond historically observed levels.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC's margin methodology, the System for Theoretical Analysis and Numerical Simulations (''STANS''), is OCC's proprietary risk management system that calculates Clearing Members'[3] margin requirements.[4] STANS utilizes large-scale Monte Carlo simulations to forecast price movement and correlations in determining a Clearing Member's margin requirement.[5] The STANS margin requirement is a portfolio calculation at the level of Clearing Member legal entity marginable net positions tier account (tiers can be customer, firm, or market marker) and consists of an estimate of 99% 2-day expected shortfall and an add-on for model risk (the concentration/dependence stress test charge).

The majority of risk factors utilized in the STANS methodology are total returns on individual equity securities. Other risk factors considered include: Returns on equity indices; changes in the calibrated coefficients of a model describing the yield curve for U.S. government securities; ''returns'' on the nearest-to-expiration futures contracts of various kinds; and changes in foreign exchange rates. For the volatility of each risk factor, the Monte Carlo simulations use the greater of: (i) The short-term volatility level predicted by the model; and (ii) an estimate of its longer-run level. In between the monthly re-estimations of all the models, volatilities are automatically re-scaled to the greater of the short-term or the longer-run levels to mitigate pro-cyclicality[6] in the margin levels. (This daily volatility measure is called the ''uniform scale factor.'') The uniform scale factor is a multiplier used in connection with STANS calculations to account for, among other things, the difference between short-term and long-term volatility forecasts for equities. It is specifically defined as the ratio of long-run volatility (10Y+) over short-run volatility (2Y). It is used to ''scale up'' the short-run volatility of the securities (*e.g.,* IBM) that are subject to monthly update, in order to estimate long-run volatility. It is also used to capture data gaps between monthly updates.

An approach employed by OCC to mitigate pro-cyclicality within STANS is to estimate market volatility based on current market conditions (''current market estimate'') and compare this current market estimate to a long-run estimate of market volatility (''long-run market estimate''). This comparison utilizes certain market benchmarks (or factors), which serve as proxies for the overall volatility of an asset class or group of products. If the long-run market estimate for a factor is found to be greater than the current market estimate, the volatility estimates for all products tied to that factor are adjusted (or scaled) up in a manner proportionate to the relationship between the current market volatility and the long-run market volatility for that factor.

Current STANS includes a single factor (''uniform scale factor''), which serves as the proxy for the equity asset class. This uniform scale factor is calibrated based on changes in the volatility of the Standard & Poor's 500® Index (''SPX'') and applied to all ''equity-based products'' in the manner described above. Currently, the uniform scale factor is the only scale factor used in STANS. The proposed change is intended to enhance the STANS margin calculations by providing for the capability to increase the number of

[44] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* OCC By-Laws Article 1(C)(14).

[4] *See* Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR–OCC–2004–20). A detailed description of the STANS methodology is available at *http://optionsclearing.com/risk-management/margins/*.

[5] *See* OCC Rule 601.

[6] A quality that is positively correlated with the overall state of the economy is deemed to be pro-cyclical.