SECURITIES AND EXCHANGE COMMISSION


July 14, 2017.

On May 15, 2017, Bats BZX Exchange, Inc. ("Bats BZX"); Bats EDGX Exchange, Inc. ("Bats EDGX"); BOX Options Exchange LLC ("BOX"); C2 Options Exchange, Incorporated ("C2"); Chicago Board Options Exchange, Incorporated ("CBOE"); FINRA; Financial Industry Regulatory Authority, Inc. ("FINRA"); International Securities Exchange, LLC ("ISE"); Investors Exchange LLC ("IEX"); Miami International Securities Exchange LLC ("MIAX"); MIAX PEARL, LLC ("PEARL"); NYSE Arca, Inc. ("NYSE Arca"); and NYSE MKT LLC ("NYSE MKT") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, proposed rule changes to eliminate or modify certain rules that require the collection or reporting of information that is duplicative of the information that will be collected by the Consolidated Audit Trail ("CAT") established pursuant to the National Market System Plan contemplated by Rule 613 of Regulation NMS. On May 22, 2017, the New York Stock Exchange LLC ("NYSE") filed with the Commission a proposed rule change for the same purpose, and each of NYSE Arca and NYSE MKT filed an additional proposed rule change for the same purpose. On May 26, 2017, the NASDAQ Stock Market LLC ("NASDAQ") and NASDAQ PHLX LLC ("PHLX") filed with the Commission proposed rule changes for the same purpose. On May 30, 2017, NASDAQ BX, Inc. ("BX") filed with the Commission a proposed rule change for the same purpose. On June 1, 2017, the proposed rule changes submitted by Bats BZX, Bats EDGX, BOX, C2, CBOE, FINRA, IEX, ISE, MIAX, and PEARL; both proposed rule changes submitted by NYSE MKT; and one of the proposed rule changes submitted by NYSE Arca were published for comment in the Federal Register.

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

Jill M. Peterson
Assistant Secretary.

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17 CFR 242.613.
comments were submitted to File No. SR–FINRA–2017–013. 9 On June 22, 2017, each of NASDAQ, BX, ISE, and Phlx filed a technical amendment to its proposed rule change.10

Section 19(b)(2) of the Act 11 provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for the proposed rule changes published on June 1, 2017, is July 16, 2017. The 45th day for the proposed rule changes published on June 2, 2017, is July 17, 2017. The 45th day for the proposed rule changes published on June 5, 2017, is July 20, 2017. The Commission is extending the 45-day time period for Commission action on each of the proposed rule changes. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule changes so that it has sufficient time to consider the comments received and any response to the comments that the self-regulatory organizations might provide.


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

Jill M. Peterson,
Assistant Secretary.

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SEcurities and EXchange COMMISSION


Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Order Disapproving Proposed Rule Changes; Amending Exchange Rule 104 To Delete Subsection (g)(i)(A)(III), Which Prohibits Designated Market Makers From Engaging in Transactions, During the Last Ten Minutes of Trading Before the Close, That Establish a New High (Low) Price for the Day on the Exchange for an Assigned Security in Which the DMM Has a Long (Short) Position

July 1, 2017.

I. Introduction

On October 27, 2016, New York Stock Exchange LLC ("NYSE") and NYSE MKT LLC ("NYSE MKT") (each an "Exchange," and collectively the "Exchanges") each filed with the Securities and Exchange Commission ("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 amending its respective Rule 104 to delete subsection (g)(i)(A)(III) — "Prohibited Transactions." 3 Exchange Rule 104(g)(i)(A)(III) prohibits Designated Market Makers ("DMMs") from engaging in a transaction that establishes, during the last ten minutes of trading before the close, a new high (low) price for the day on the Exchange in an assigned security in which the DMM has a long (short) position ("Prohibited Transactions Rule").

Proposed rule changes were published for comment in the Federal Register on November 17, 2016.4 On December 20, 2016, the Commission extended to February 15, 2017, the time period in which to approve or disapprove the proposed rule changes or to institute proceedings to determine whether to approve or disapprove the proposals.5 On February 15, 2017, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule changes.6 The Commission then received a comment letter, as well as a combined response letter from NYSE and NYSE MKT.7 On April 28, 2017, the Commission designated a longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule changes.8 This order disapproves the proposed rule changes.

II. Description of the Proposals

Currently, under Exchange Rule 104(g)(i)(A)(III), a DMM with a long (short) position in an assigned security cannot, during the last ten minutes before the close of trading, make a purchase (sale) in that security that results in a new high (low) price on the Exchange for the day.9 The Prohibited Transactions Rule provides two exceptions that permit a DMM to: (1) Match another market’s better bid or offer price; or (2) bring the price of a security into parity with an underlying or related security or asset.10 The Exchanges propose to remove the Prohibited Transactions Rule from their rulebooks.

12 See Letter from Stephen John Berger, Managing Director, Government and Regulatory Policy, Citadel Securities, to Brent J. Fields, Secretary, Commission (Mar. 15, 2017) ("Citadel Letter"); Letter from Elizabeth K. King, General Counsel and Corporate Secretary, NYSE, to Brent J. Fields, Secretary, Commission (Mar. 16, 2017) ("NYSE Letter"); the NYSE Letter addressed only the NYSE proposal, which is substantively identical to the NYSE MKT proposal. The NYSE Letter was submitted on behalf of both NYSE and NYSE MKT.
15 See id.; see also Exchange Rule 104(g)(i)(A)(iii).