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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69609; File No. SR-NYSEArca-2013-15)

May 20, 2013

Self-Regulatory Organizations; NYSE Arca Inc.; Order Granting Approval of Proposed Rule Change, Modified by Amendment No. 1, Amending Rule 6.87 In Part and Adding a New Section to Address Errors that Involve Complex Orders

I. Introduction

On February 1, 2013, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the Exchange's Obvious Error Rule in part and add a new section to address errors that involve Complex Orders. The proposed rule change was published for comment in the Federal Register on February 21, 2013.[3] The Commission received no comment letters on the proposal. On April 23, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of Proposal

The Exchange proposes several changes to its Obvious Error Rule, Rule 6.87. First, the Exchange is proposing to change the portion of the rule that addresses errors in series with zero or no bid. Specifically, the Exchange proposes replacing reference to "series quoted no bid on

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

2 17 CFR 240.19b-4.

3 Securities Exchange Act Release No. 68927 (February 14, 2013), 78 FR 12117 ("Notice").

4 In Amendment No. 1, NYSE Arca deleted an erroneous reference to "Professional Customers" in the proposal because the Exchange's rules do not include "Professional Customer" as a defined category. The Commission believes the amendment is technical in nature and not subject to notice and comment.

the Exchange" with "series where the NBBO bid is zero." The Exchange believes that this change ensures consistency with other relevant parts of the rule.

Second, the Exchange proposes to increase the amount of time in which Market Makers are required to notify the Exchange in order to have transactions reviewed under Rule 6.87. Under the proposal, the time would increase from five minutes to ten minutes. The Exchange represents that this additional time accommodates the potential need for Market Makers to call multiple exchanges to have transactions reviewed.

Third, the Exchange proposes to extend the time OTP Holders acting as agent for Customer orders have to notify the Exchange of a potential error from twenty minutes to thirty minutes.[5] The Exchange states that because Customers are far removed from the execution of the trade, it believes that it is appropriate to give Customers more time for their requests for review to pass from their broker-dealer to the Exchange. In contrast, the Exchange notes that other market participants, such as firms and non-member Market Makers tend to route their own order flow directly to the Exchange and are not as far removed from the actual execution. The Exchange further explains that it is fairly common for broker-dealers that receive a Customer order to route that order to another broker-dealer that uses a router that evaluates best execution factors to determine where to ultimate route the order. In these situations, if a Customer chooses to request an Obvious Error review, Customers may need more than 20 minutes for their requests for review to reach the Exchange. The Exchange acknowledges that extending the notification period can increase the uncertainty of the standing of the trade, however, it believes that such

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[5] The Commission notes that NYSE Arca Rule 6.87, Commentary .06 states that "for the purposes of Rule 6.87, the term Customer, as defined in Rule 6.1(b)(29) or Rule 6.1A(a)(4), shall not include a broker or dealer."

uncertainty will be limited to trades that are so outside the bounds of normal trading that they might qualify for Obvious Error treatment.

Finally, the Exchange is proposing to add a new section to Rule 6.87 to address Complex Orders in the Obvious Error context, as its current rule is silent on how such Complex Orders are handled. According to the Exchange, Complex Orders are often used by market participants to enter positions known as spreads that entail limited risk relative to an outright naked sale of a put or call. The Exchange believes that the best approach for dealing with Complex Orders in the Obvious Error context is to preserve the spread whenever possible to mitigate the risk of such trades. Therefore, in the situation where a Complex Order trades with another Complex Order in the Complex Order Book, and one of the legs qualifies for Obvious Error treatment under Rule 6.87, then all legs of the Complex Order will be busted unless both parties mutually agree to an adjustment price.

The Exchange also believes that it is appropriate not to permit Obvious Error treatment in situations where the only error in the trade occurred in a no-bid series. Therefore, in situations where a Complex Order trades with another Complex Order in the Complex Order Book where one leg qualifies for the no-bid provision of Rule 6.87, the trade will stand as executed, unless both parties to the trade mutually agree otherwise. The Exchange believes that this provision will prevent manipulation and a potential increase in nullified trades, particularly because it prevents parties from being able to enter a spread price slightly away from the market, thus increasing the chance that one of the legs will qualify for no-bid treatment, and providing the party entering the order with a window of time to evaluate the market and decide if it would be to its benefit to nullify the trade.

Finally, the Exchange is codifying its current practice for handling situations in which a Complex Order trades with individual orders or quotes in the Consolidated Book. Pursuant to the proposed Rule, each executed leg will be reviewed separately under Rule 6.87. The Exchange notes that while it prefers to avoid the partial execution of a Complex Order, pursuant to this provision, it is possible that after a Complex Order trade, only one leg qualifies for Obvious Error treatment, resulting in the residual position of a single leg. The Exchange explains that is will not seek to nullify a valid execution in the Consolidated Order Book of an OTP Holder who unknowingly interacted with a leg of a Complex Order.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act[6] and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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 is replacing reference to "series quoted no bid on the Exchange" with "series where the NBBO bid is zero" because it believes that the NBBO provides greater

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[6] 15 U.S.C. 78f.

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

[8] 15 U.S.C. 78f(b)(5).

accuracy in determining the value of an option because it takes into account interest from participants across all markets, not just those active on the Exchange. The Exchange also believes that this change will promote just and equitable principles of trade by adding more certainty and consistency to the Exchange's Obvious Error rule. This consistency, according to the Exchange, is important to help avoid investor confusion.

The Exchange believes that the change to increase the time limit for Market Makers to request review of transactions protects investors and the public interest because it will ensure they are comfortable meeting the deadline, thereby allowing Market Makers to continue to aggressively provide liquidity in a transparent and nondiscriminatory manner to all participants. Further, the Exchange notes that increasing the time limit for OTP Holders acting as agent for Customers to request review of transactions should give Customers sufficient time to request a review for trades, which is also consistent with investor protection and furthering the public interest as it allows those market participants furthest removed from the point of execution time to evaluate each trade and have adequate time to notify the Exchange of a potential error.

The Exchange believes that the proposed rule changes that address the handling of Complex Orders under the Obvious Error rule are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Exchange notes that detailing the treatment of Complex Orders involved in Obvious Errors provides investors with greater certainty. The Exchange also believes that the best approach for dealing with Complex Orders in the context of the Obvious Error rule is to preserve the spread whenever possible. Second, the Exchange believes that preventing market participants from busting trades solely the result of a leg(s) of a Complex Order executing in a no-bid series furthers the protection of investors and the public

interest by preventing potential abuse. Finally, the Exchange believes that the proposed rule change provides objective guidelines for the determination of whether an obvious price error has occurred, as it notes that the determination of whether an "Obvious Error" has occurred should be based on specific and objective criteria and subjective to specific and objective procedures.

The Commission notes that, in approving past proposals relating to Obvious Errors, it has emphasized the importance of specific and objective criteria to determine how and when to nullify or adjust trades involving Obvious Errors.[9] The Commission believes the changes that comprise this current proposal further this objective. For the reasons noted above, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

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[9] See, e.g., Securities Exchange Release Nos. 54228 (July 27, 2006), 71 FR 44066 (August 3, 2006) (SR-CBOE-2006-14) and 58778 (October 14, 2008), 73 FR 62577 (October 21, 2008) (SR-CBOE-2008-90) (both approving revisions to CBOE's Obvious Error Rules).

[10] 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR-NYSEArca-2013-15), as modified by Amendment No. 1, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. [12]

Kevin M. O'Neill
Deputy Secretary

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[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30-3(a)(12).