



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-98483; File No. SR-NYSEAMER-2023-44]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change to Modify Rule 900.3NYP

September 22, 2023.

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 September 18, 2023, NYSE American LLC (“NYSE American” or the “Exchange”) 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.

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

The Exchange proposes to modify Rule 900.3NYP(g)(1) regarding Complex Qualified Contingent Cross Orders. The proposed rule change is available on the Exchange’s website 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 modify Rule 900.3NYP(g)(1) regarding Complex Qualified Contingent Cross (“QCC”) Orders to allow Complex QCC Orders in non-standard ratios (as defined below) to be processed electronically.⁴ The Exchange notes that an identical rule change was recently adopted on its affiliated exchange, NYSE Arca, Inc. (“NYSE Arca”) and therefore this proposal raises no new or novel issues not previously considered by the Commission.⁵

Rule 900.3NYP(f) provides that a Complex Order is any order involving the simultaneous purchase and/or sale of two or more option series in the same underlying security (the “legs” or “components” of the Complex Order), 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) (referred to herein as the “standard ratio” or “standard ratio requirement”). The Exchange currently permits certain Complex Orders with ratios greater than three-to-one or less than one-to-three (“non-standard ratios”) for execution on the Exchange’s trading floor.⁶ This proposed change is competitive as at least one other options exchange permits Complex QCC Orders in non-standard ratios to be processed electronically.⁷ As such, the Exchange proposes to add new Rule

⁴ The Exchange notes that this proposed change modifies a Pillar rule (i.e., with a “P” modifier) that has not yet been implemented. The Exchange anticipates migrating to its Pillar trading platform beginning on October 23, 2023. As is the case with all Pillar rules, this proposed rule change (as well as the entire Rule 900.3NYP) will not be implemented until all other Pillar-related rule filings are approved or operative, as applicable, and the Exchange announces the migration of underlying symbols to Pillar by Trader Update.

⁵ See Securities Exchange Act Release No. 98279 (September 1, 2023), 88 FR 62115 (September 8, 2023) (SR-NYSEARCA-2023-57) (immediately effective rule change to modify Rule 6.62P-O(g)(1) to allow Complex QCC Orders in non-standard ratios).

⁶ See, e.g., Rule 900.3NYP(h)(6)(B) (regarding Stock/Complex Orders, which are a subset of Complex Orders (per Rule 900.3NYP(f)), that are only available for trading in Open Outcry and are not subject to the standard ratio requirement).

⁷ In June 2022, Cboe Exchange, Inc. (“Cboe”) began supporting the electronic processing of certain stock-option orders in non-standard ratios, including Complex QCC Orders. See Cboe Exchange Alert, “Schedule Update - Cboe Options Introduces New Net, Leg Price Increments and Enhanced Electronic, Open Outcry Handling for Complex Orders with Non-Conforming Ratios, Reference ID: C2022060301 available online at https://cdn.cboe.com/resources/release_notes/2022/Schedule-Update-Cboe-Options-Introduces-New-Net-Leg-Price-Increments-and-Enhanced-Electronic-Open-Outcry-Handling-for-Complex-Orders-with-Non-Conforming-Ratios.pdf (providing, in relevant part, that beginning June 12, 2022, “automated handling via COA, COB, AIM, and QCC will be available for applicable non-conforming orders, except in SPX/SPXW). See also Securities Exchange Act Release Nos. 94204 (February 9, 2022), 87 FR 8625

900.3NYP(g)(1)(G) to specify that Complex QCC Orders may be processed electronically in non-standard ratios.⁸

Rule 900.3NYP(g)(1)(A) provides that a QCC Order must be comprised of an originating order to buy or sell at least 1,000 contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order or orders totaling an equal number of contracts.⁹ A Complex QCC Order is a QCC Order that has more than one option leg and each option leg must have at least 1,000 contracts.¹⁰ Like QCC Orders, each Complex QCC Order must be a part of a “qualified contingent trade” (“QCT”), which is a transaction consisting of two or more component orders, one of which must be a stock leg.¹¹ The Exchange notes that there may be instances when an order sender must submit a Complex QCC in a non-standard ratio to meet the QCT criteria (e.g., to be fully hedged).¹²

The proposed rule change would have no impact on the pricing of Complex QCCs because the same (existing) pricing requirements apply to all Complex QCC Orders that are electronically processed by the Exchange. Specifically, no option leg of a Complex QCC Order

(February 15, 2022) (SR-CBOE-2021-046) (order approving Cboe’s proposal, as amended, to permit complex orders with ratios less than one-to-three and greater than three-to-one to be eligible for electronic processing and to trade in penny increments); 95006 (May 31, 2022), 87 FR 34334 (June 6, 2022) (SR-CBOE-2022-024) (allowing Cboe to retain discretion to determine on class-by-class basis eligibility for electronic processing of complex orders with ratios less than one-to-three and greater than three-to-one (i.e., ratios other than the standard ratio requirement). The current proposal is limited to allowing Complex QCC Orders regardless of ratio to be traded electronically. If the Exchange opts to allow other (non-QCC) Complex Orders in any ratio to be traded electronically, the Exchange will submit a separate rule filing.

⁸ See proposed Rule 900.3NYP(g)(1)(G) (“Complex QCC Orders are eligible for electronic processing regardless of the ratio in the component legs.”). The Exchange notes that other options exchanges offer Complex QCC Orders, however, the rules of these options exchanges are silent as to whether they permit Complex QCC Orders in non-standard ratios to be processed electronically. See, e.g., Nasdaq ISE, LLC (“ISE”) Options 3, Section 12(d) (describing Complex Qualified Cross Orders).

⁹ See Rule 900.3NYP(g)(1)(A). See also Rule 900.3NYP(g)(1)(B) for the definition of a Qualified Contingent Trade.

¹⁰ See Rule 900.3NYP(g)(1)(A) (defining Complex QCC Orders). See also Rule 900.3NYP(g)(1)(D) regarding pricing requirements for Complex QCCs. This proposal does not alter the pricing requirements for Complex QCC Orders and such requirements apply regardless of whether a Complex QCC Order has a standard (or non-standard) ratio.

¹¹ See Rule 900.3NYP(g)(1)(B)(i). See generally Rule 900.3NYP(g)(1)(B) (setting forth criteria for a Qualified Contingent Trade).

¹² See Rule 900.3NYP(g)(1)(B)(vi) (providing that the QCT transaction must be “fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.”).

will trade at a price worse than the Exchange BBO¹³ and a Complex QCC Order will be rejected based on its price if:

- “any option leg cannot execute in compliance with paragraph (g)(1)(C) of this Rule”, i.e., cannot meet the pricing requirements for single-leg QCC Orders”,¹⁴
- “the best-priced Complex Order(s) on the Exchange contain(s) displayed Customer interest and the Complex QCC Order price does not improve such displayed Customer interest by 0.01;”¹⁵ or
- “the price of the QCC Order is worse than the best-priced Complex Orders in the Consolidated Book.”¹⁶

Thus, under this proposal, the Exchange would ensure that every component leg of a Complex QCC Order (regardless of ratio) would trade at a price that is equal to or better than the Exchange BBO and better than displayed Customer interest on the Exchange in the same manner as it does today. In other words, the proposed rule change continues to protect interest in the leg markets as well as displayed Customer interest on the Exchange.

Implementation

¹³ See Rule 900.3NYP(g)(1)(D) (providing that “no option leg [of a Complex QCC Order] will trade at a price worse than the Exchange BBO”).

¹⁴ See Rule 900.3NYP(g)(1)(D)(i). See also Rule 900.3NYP(g)(1)(C) (Execution of QCC Orders) (“A QCC Order with one option leg will be rejected if received when the NBBO is crossed or if it will trade at a price that (i) is at the same price as a displayed Customer order on the Consolidated Book and (ii) is not at or between the NBBO” and requiring that “[a] QCC Order with one option leg will never trade at a price worse than the Exchange BBO.”).

¹⁵ See Rule 900.3NYP(g)(1)(D)(ii). The Exchange proposes to amend current Rule 900.3NYP(g)(1)(D)(ii) to clarify that the Complex QCC Order must price improve any displayed Customer interest by “at least” one penny (\$0.01), which would make the Rule more accurate. See proposed Rule 900.3NYP(g)(1)(D)(ii).

¹⁶ See Rule 900.3NYP(g)(1)(D)(iii). The Exchange proposes to amend current Rule 900.3NYP(g)(1)(D)(iii) to clarify that this provision refers to the price of the “Complex” QCC Order, which would make the Rule more accurate. See proposed Rule 900.3NYP(g)(1)(D)(iii). The Exchange would continue to reject Complex QCC Orders (regardless of ratio) if “the prices of the best-priced Complex Orders in the Consolidated Book are crossed”; or “for any option leg there is no NBO.” See Rule 900.3NYP(g)(1)(D)(iii), (iv), respectively.

This proposed change modifies a Pillar rule (i.e., with a “P” modifier). As is the case with all Pillar rules, this proposed rule change (as well as the entire Rule 900.3NYP) will not be implemented until all other Pillar-related rule filings are approved or operative, as applicable, and the Exchange announces the migration of underlying symbols to Pillar by Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹⁷ in general, and furthers the objectives of section 6(b)(5) of the Act,¹⁸ in particular, in that it is 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 regulating, clearing, settling, processing information with respect to, and 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.

In particular, the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will enable the Exchange to compete on equal footing with other exchanges that permit trading of Complex QCCs with non-standard ratios.¹⁹ The proposed rule change would continue to protect investors and the public interest because the (approved) pricing requirements for Complex QCC Orders would continue to apply to Complex QCC Orders with non-standard ratios. As such, the proposal would ensure that the Complex QCC Order is priced equal to or better than the best-priced Complex Order(s) and, if there is displayed Customer interest on such order(s), that the execution price of the Complex QCC Order improves the price of the displayed Customer interest and improves the price of displayed Customer interest on each component leg of the Complex QCC Order.

In addition, the proposed change would promote just and equitable principles of trade, 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 because it would provide another venue for electronically executing Complex QCC Orders with non-standard ratios. The proposed change would also increase

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ See supra notes 5 and 7 (regarding NYSE Arca and Cboe, respectively).

opportunities for execution of Complex QCC Orders with non-standard ratios, which benefits all investors. The Exchange also believes that the proposed rule change would not permit unfair discrimination among market participants, as all market participants may opt to trade Complex QCC Orders with non-standard ratios.

The Exchange believes that the proposed clarifying changes would ensure accuracy of the proposed rule, which benefits all investors.²⁰

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 Exchange does not believe that its proposed rule change will impose any burden on intra-market competition as it would apply equally to all market participants that opt to submit Complex QCC Orders with non-standard ratios for electronic processing, which orders the Exchange will process in a uniform manner.

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, rather the Exchange believes that its proposal will promote inter-market competition. As noted here, the proposed change is competitive as another options exchange currently permits Complex QCC Orders with non-standard ratios to be traded electronically. The Exchange's proposal will enhance inter-market competition by providing an additional venue where investors may electronically execute Complex QCC Orders with non-standard ratios, giving investors greater flexibility and a choice of where to send their orders. Market participants may find it more convenient to access one exchange over another or may choose to concentrate volume at a particular exchange to maximize the impact of volume-based incentive programs or may prefer the trade execution services of one exchange over another.

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

²⁰ See supra notes 15-16.

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

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 Act²¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.²²

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 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 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2023-44 on the subject line.

²¹ 15 U.S.C. 78s(b)(3)(A)(iii).

²² 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.

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-NYSEAMER-2023-44. 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 website (<https://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 website 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2023-44 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

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