

Required fields are shown with yellow backgrounds and asterisks.

Filing by NYSE MKT LLC.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires * <input type="text"/>			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to amend certain rules to accommodate the trading of option contracts overlying 10 shares of a security

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Christopher Last Name \* Twomey  
 Title \* Senior Counsel NYSE Regulation Inc  
 E-mail \* ctwomey@nyx.com  
 Telephone \* (212) 656-5005 Fax (212) 656-2223

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 03/18/2013 Corporate Secretary  
 By Janet McGinness  
 (Name \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Janet McGinness, jmcginness@nyx.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> NYSE MKT LLC (“NYSE MKT” or the “Exchange”), on behalf of NYSE Amex Options LLC (“NYSE Amex Options”), is proposing to amend certain rules to accommodate the trading of option contracts overlying 10 shares of a security (“mini-options contracts”).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5. A copy of this filing is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the Exchange’s principal office, and at the Public Reference Room of the Securities and Exchange Commission (“Commission”).

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Christopher Twomey  
Senior Counsel  
NYSE Regulation  
(212) 656-5005

Peter G. Armstrong  
Managing Director, Options  
NYSE Euronext  
(415) 393-4232

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

- (a) Purpose

The Exchange recently adopted a Commentary to Rule 901 which establishes the

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

listing and trading of mini-options contracts (which represent a deliverable of 10 shares of an underlying, as opposed to the deliverable of 100 shares of an underlying for standard options contracts).<sup>3</sup> This filing is to clarify the treatment of mini-options contracts with respect to certain trading rules. Specifically, this proposal seeks to: (a) permit mini-options to trade in the same minimum increments as standard contracts for the same underlying, (b) include mini-options in calculations for the Risk Limitation Mechanism, and (c) establish the trading of Qualified Contingent Cross Orders in mini-options.

### Trading Differentials

Of the five securities on which mini-options are permitted, four of them (SPY, AAPL, GLD and AMZN) participate in the penny pilot. Under the penny pilot, (1) the minimum price variation for AAPL, GLD and AMZN options is \$0.01 for all quotations in series that are quoted at less than \$3.00 per contract and \$0.05 for all quotations in series that are quoted at \$3.00 per contract or greater and (2) the minimum price variation for SPY options is \$0.01 for all quotations in all series.<sup>4</sup>

This proposed rule change will permit the minimum trading increment for mini-options contracts to be identical to the minimum trading increment applicable to standard options on the same underlying security and is consistent with recently approved proposals of other markets.<sup>5</sup> The Exchange believes having different trading increments for mini-options contracts than those permitted for standard options on the same underlying security would be detrimental to the success of this new product offering and would also lead to investor confusion. The Exchange notes that the Commission approved mini-options contracts on SPY, AAPL, GLD, GOOG and AMZN because of their high price and current volume levels and because of the level of retail investor participation in trading options in these classes. Mini-options are a natural extension to the options overlying these securities and therefore should retain the most important characteristic, i.e., trading increments. The Exchange believes that by reducing the minimum trading increments for mini-options contracts, the proposed rule change will provide market participants with meaningful trading opportunities in this product. Further, quoting and trading in smaller increments will enable market participants to trade mini-options with greater precision as to price. Providing these more refined increments will permit the Exchange's market makers the opportunity to provide better fills (meaning less spread than the current wider minimum increments rules allow) to customers. Therefore, the Exchange proposes to amend its rules to permit the listing and trading of mini-options in the same increment

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<sup>3</sup> See Securities Exchange Act Release No. 69131 (March 13, 2013) (SR-NYSE MKT-2013-23).

<sup>4</sup> See Exchange Rule 960NY.

<sup>5</sup> See Securities Exchange Act Release No. 69124 (March 12, 2013) (approving SR-CBOE-2013-16 and SR-ISE-2013-08).

permitted for standard options on the same underlying security. The Exchange notes that it is not requesting penny pricing for all of the five securities eligible for mini-options trading; but rather is seeking to permit matched penny pricing for mini-options contracts on those securities for which standard options already trade in pennies.

With this proposed rule change, although mini-options contracts would be trading in narrower increments, they would not be considered part of the penny pilot.

The Exchange's proposal to quote and trade certain option classes that are outside of the penny pilot in \$0.01 increments is not novel. Specifically, the Commission has permitted the International Stock Exchange, LLC ("ISE") to set the minimum increment for all Foreign Currency Options traded on the ISE at \$0.01 regardless of the price at which the option is quoted.<sup>6</sup> The Commission has also previously approved a proposal by NASDAQ OMX PHLX, Inc. permitting that exchange to also trade its foreign currency options in \$0.01 increments.<sup>7</sup>

Further, the Exchange agrees with the statements made by the Commission in approving similar filings of ISE and Chicago Board Options Exchange, Incorporated ("CBOE"). In particular, the Exchange believes that maintaining consistency in trading increments between mini-options contracts and standard options contracts for the same underlying security: (a) should help prevent investor confusion that could otherwise result if the standard and mini-options were not aligned;<sup>8</sup> (b) should provide additional market benefits (such as attracting additional liquidity providers who already make markets in the underlying symbols which hopefully would result in more efficient pricing via arbitrage);<sup>9</sup> and (c) is consistent with the current operation of member firms' systems (which are programmed to use root symbols and would not be able to assign different minimum price variations to mini-options contracts).<sup>10</sup>

In support of this proposed rule change, the Exchange proposes to amend its Rules 903 and 960NY. As to Rule 960NY, the Exchange proposes to add new Commentary .03 which provides that the minimum trading increment for mini-options contracts shall be determined in accordance with Commentary .15(d) to Rule 903. Proposed Commentary .15(d) to Rule 903 provides that the minimum

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<sup>6</sup> See Securities Exchange Act Release No. 57019 (December 20, 2007), 72 FR 73937 (December 28, 2007)(SR-ISE-2007-120).

<sup>7</sup> See Securities Exchange Act Release No. 56933 (December 7, 2007), 72 FR 71185 (December 14, 2007)(Approving SR-PHLX-2007-70).

<sup>8</sup> See supra note 5 at 4-5.

<sup>9</sup> See supra note 5 at 5.

<sup>10</sup> See supra note 5 at 6.

trading increment for mini-options contracts shall be the same as the minimum trading increment permitted for standard options on the same underlying security.

With regard to the impact of this proposal on system capacity, the Exchange represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with this proposal. The Exchange does not believe that this increased traffic will become unmanageable since mini-options are limited to a fixed number of underlying securities.

#### Treatment of Mini-Options

Pursuant to Rule 928NY, the Exchange employs a number of mechanisms designed to mitigate risks of ATP Holders and serve as additional safeguards that could help limit potential harm from extreme number of executions. The Exchange believes that, since these mechanisms are intended to prevent repetitive executions, for purposes of calculating the trade counter, mini-options contracts should be calculated as part of the underlying symbol. As a result, the Exchange proposes to amend Rule 928NY to include mini-options contracts in the Risk Limitation Mechanism. Accordingly, ATP Holders will be able to continue to customize their thresholds based upon underlying symbol.

Certain orders have minimum thresholds assigned by rule. Given the reduced delivery of mini-options contracts, there is a risk that those thresholds could be circumvented by the use of mini-options contracts instead of (or in combination with) standard options. To make clear that such loopholes are not available, the Exchange seeks to establish the standards that apply to mini-options contracts.

Similarly, the Exchange also proposes to amend the definition of Qualified Contingent Cross Order to accommodate the reduced deliverables of mini-options contracts. When Qualified Contingent Cross Orders were originally proposed, they had a size requirement of only 500 standard contracts.<sup>11</sup> However, in gaining ultimate approval the minimum size was increased to the current level of 1000 standard contracts representing 100,000 shares.<sup>12</sup> The reduced deliverable of mini-options contracts potentially threatens that standard in a manner that was never intended and not discussed in the adoption of mini-options contracts.<sup>13</sup> As such, to maintain the current threshold, the Exchange proposes that orders for mini-options must be of 10,000 contracts or more to qualify as a Qualified

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<sup>11</sup> See Securities Exchange Act Release No. 60584 (September 3, 2009), 74 FR 45663 (September 3, 2009)(SR-ISE-2009-35).

<sup>12</sup> See Securities Exchange Act Release No. 63955 (March 2, 2011), 76 FR 11533 (March 2, 2011)(SR-ISE-2010-73).

<sup>13</sup> See *supra* note 3.

Contingent Cross Order.<sup>14</sup> Without such a change, market participants could trade Qualified Contingent Cross Orders for the underlying share equivalent of merely 100 standard contracts.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>15</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b)(5),<sup>16</sup> in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that investors and market participants would benefit from the current rule proposal because it (a) assures that standard options and mini-options on the same underlying security will trade in similar increments and therefore provide market participants meaningful trading opportunities and enable to trade mini-options contracts with greater precision as to price; (b) permit OTP Holders to continue to customize their thresholds based upon underlying symbol by including mini-options in the Risk Limitation Mechanism; and (c) allow market participants to execute Qualified Contingent Cross Orders in mini-options contracts. The Exchange believes that these proposed rule changes will avoid investor confusion that could otherwise develop through the trading of mini-options contracts alongside standard options. Further, the Exchange believes that establishing these amendments prior to the commencement of trading of mini-options contracts would lessen investor and marketplace confusion.

4. 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. In particular, the proposed amendment to trading differentials is based upon recently approved rule amendments by other option exchanges. Since mini-options contracts are permitted on multiple-listed classes, other exchanges that have received approval to trade mini-options contracts will have the opportunity to similarly amend their rules to incorporate mini-options into risk mechanisms and to accommodate Qualified Contingent Orders in mini-options contracts.

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<sup>14</sup> It should be noted that the proposed language does not permit the combining of mini-options contracts with standard contracts in order to reach the minimum threshold. For example, an order to trade 900 standard contracts and 1000 mini-options contracts would not qualify for treatment as a Qualified Contingent Cross.

<sup>15</sup> 15 U.S.C. 78f(b).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange believes that the proposal qualifies for immediate effectiveness upon filing as a “non-controversial” rule change in accordance with Section 19(b)(3)(A) of the Act<sup>17</sup> and Rule 19b-4(f)(6) thereunder.<sup>18</sup>

The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its 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, or such shorter time as the Commission may designate.

The Exchange believes that the proposed filing is non-controversial because it seeks to adopt language substantively identical to proposals recently approved for other markets with regard to the minimum increments applicable to mini-options contracts and to clarify treatment of mini-options contracts under certain established rules of the Exchange. The Exchange believes that the absence of such amendment could lead to investor confusion. In addition, the Exchange believes that the proposal does not impose any burden on competition because it seeks to inform investors and market participants of the treatment of mini-options contracts with regard to established Exchange trading rules.

For the foregoing reasons, the Exchange believes that this rule filing qualifies for immediate effectiveness as a “non-controversial” rule change. The Exchange respectfully requests the Commission waive the 30-day operative delay so that the proposed change will be effective and operative immediately. The Exchange filed a proposed rule change to amend its rules to list and trade certain mini-options

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

contracts on the Exchange.<sup>19</sup> The Exchange represents that it intends to launch trading in mini-options contracts on March 18, 2013. Waiver of the operative delay will allow investors and market participants to benefit from the proposed language regarding mini-options contracts without undue delay and in time to coincide with the commencement of trading mini-options on the Exchange on March 18, 2013.

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change relating to Trading Differentials is based upon recently approved rule amendments by ISE and CBOE.<sup>20</sup>

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5 – Proposed Rule Text

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<sup>19</sup> See supra note 3.

<sup>20</sup> See supra note 5.

SECURITIES AND EXCHANGE COMMISSION  
 (Release No. 34- ; File No. SR-NYSEMKT-2013-26)

[Date]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Certain Rules to Accommodate the Trading of Option Contracts Overlying 10 Shares of a Security

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on March 18, 2013, 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, II, and III 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 certain rules to accommodate the trading of option contracts overlying 10 shares of a security (“mini-options contracts”). The text of the proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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 recently adopted a Commentary to Rule 901 which establishes the listing and trading of mini-options contracts (which represent a deliverable of 10 shares of an underlying, as opposed to the deliverable of 100 shares of an underlying for standard options contracts).<sup>4</sup> This filing is to clarify the treatment of mini-options contracts with respect to certain trading rules. Specifically, this proposal seeks to: (a) permit mini-options to trade in the same minimum increments as standard contracts for the same underlying, (b) include mini-options in calculations for the Risk Limitation Mechanism, and (c) establish the trading of Qualified Contingent Cross Orders in mini-options.

Trading Differentials

Of the five securities on which mini-options are permitted, four of them (SPY, AAPL, GLD and AMZN) participate in the penny pilot. Under the penny pilot, (1) the minimum price variation for AAPL, GLD and AMZN options is \$0.01 for all quotations in series that are quoted at less than \$3.00 per contract and \$0.05 for all quotations in

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<sup>4</sup> See Securities Exchange Act Release No. 69131 (March 13, 2013) (SR-NYSE MKT-2013-23).

series that are quoted at \$3.00 per contract or greater and (2) the minimum price variation for SPY options is \$0.01 for all quotations in all series.<sup>5</sup>

This proposed rule change will permit the minimum trading increment for mini-options contracts to be identical to the minimum trading increment applicable to standard options on the same underlying security and is consistent with recently approved proposals of other markets.<sup>6</sup> The Exchange believes having different trading increments for mini-options contracts than those permitted for standard options on the same underlying security would be detrimental to the success of this new product offering and would also lead to investor confusion. The Exchange notes that the Commission approved mini-options contracts on SPY, AAPL, GLD, GOOG and AMZN because of their high price and current volume levels and because of the level of retail investor participation in trading options in these classes. Mini-options are a natural extension to the options overlying these securities and therefore should retain the most important characteristic, i.e., trading increments. The Exchange believes that by reducing the minimum trading increments for mini-options contracts, the proposed rule change will provide market participants with meaningful trading opportunities in this product. Further, quoting and trading in smaller increments will enable market participants to trade mini-options with greater precision as to price. Providing these more refined increments will permit the Exchange's market makers the opportunity to provide better fills (meaning less spread than the current wider minimum increments rules allow) to customers. Therefore, the Exchange proposes to amend its rules to permit the listing and

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<sup>5</sup> See Exchange Rule 960NY.

<sup>6</sup> See Securities Exchange Act Release No. 69124 (March 12, 2013) (approving SR-CBOE-2013-16 and SR-ISE-2013-08).

trading of mini-options in the same increment permitted for standard options on the same underlying security. The Exchange notes that it is not requesting penny pricing for all of the five securities eligible for mini-options trading; but rather is seeking to permit matched penny pricing for mini-options contracts on those securities for which standard options already trade in pennies.

With this proposed rule change, although mini-options contracts would be trading in narrower increments, they would not be considered part of the penny pilot.

The Exchange's proposal to quote and trade certain option classes that are outside of the penny pilot in \$0.01 increments is not novel. Specifically, the Commission has permitted the International Stock Exchange, LLC ("ISE") to set the minimum increment for all Foreign Currency Options traded on the ISE at \$0.01 regardless of the price at which the option is quoted.<sup>7</sup> The Commission has also previously approved a proposal by NASDAQ OMX PHLX, Inc. permitting that exchange to also trade its foreign currency options in \$0.01 increments.<sup>8</sup>

Further, the Exchange agrees with the statements made by the Commission in approving similar filings of ISE and Chicago Board Options Exchange, Incorporated ("CBOE"). In particular, the Exchange believes that maintaining consistency in trading increments between mini-options contracts and standard options contracts for the same underlying security: (a) should help prevent investor confusion that could otherwise

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<sup>7</sup> See Securities Exchange Act Release No. 57019 (December 20, 2007), 72 FR 73937 (December 28, 2007)(SR-ISE-2007-120).

<sup>8</sup> See Securities Exchange Act Release No. 56933 (December 7, 2007), 72 FR 71185 (December 14, 2007)(Approving SR-PHLX-2007-70).

result if the standard and mini-options were not aligned;<sup>9</sup> (b) should provide additional market benefits (such as attracting additional liquidity providers who already make markets in the underlying symbols which hopefully would result in more efficient pricing via arbitrage);<sup>10</sup> and (c) is consistent with the current operation of member firms' systems (which are programmed to use root symbols and would not be able to assign different minimum price variations to mini-options contracts).<sup>11</sup>

In support of this proposed rule change, the Exchange proposes to amend its Rules 903 and 960NY. As to Rule 960NY, the Exchange proposes to add new Commentary .03 which provides that the minimum trading increment for mini-options contracts shall be determined in accordance with Commentary .15(d) to Rule 903. Proposed Commentary .15(d) to Rule 903 provides that the minimum trading increment for mini-options contracts shall be the same as the minimum trading increment permitted for standard options on the same underlying security.

With regard to the impact of this proposal on system capacity, the Exchange represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with this proposal. The Exchange does not believe that this increased traffic will become unmanageable since mini-options are limited to a fixed number of underlying securities.

#### Treatment of Mini-Options

Pursuant to Rule 928NY, the Exchange employs a number of mechanisms designed to mitigate risks of ATP Holders and serve as additional safeguards that could

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<sup>9</sup> See supra note 6 at 4-5.

<sup>10</sup> See supra note 6 at 5.

<sup>11</sup> See supra note 6 at 6.

help limit potential harm from extreme number of executions. The Exchange believes that, since these mechanisms are intended to prevent repetitive executions, for purposes of calculating the trade counter, mini-options contracts should be calculated as part of the underlying symbol. As a result, the Exchange proposes to amend Rule 928NY to include mini-options contracts in the Risk Limitation Mechanism. Accordingly, ATP Holders will be able to continue to customize their thresholds based upon underlying symbol.

Certain orders have minimum thresholds assigned by rule. Given the reduced delivery of mini-options contracts, there is a risk that those thresholds could be circumvented by the use of mini-options contracts instead of (or in combination with) standard options. To make clear that such loopholes are not available, the Exchange seeks to establish the standards that apply to mini-options contracts.

Similarly, the Exchange also proposes to amend the definition of Qualified Contingent Cross Order to accommodate the reduced deliverables of mini-options contracts. When Qualified Contingent Cross Orders were originally proposed, they had a size requirement of only 500 standard contracts.<sup>12</sup> However, in gaining ultimate approval the minimum size was increased to the current level of 1000 standard contracts representing 100,000 shares.<sup>13</sup> The reduced deliverable of mini-options contracts potentially threatens that standard in a manner that was never intended and not discussed in the adoption of mini-options contracts.<sup>14</sup> As such, to maintain the current threshold, the Exchange proposes that orders for mini-options must be of 10,000 contracts or more

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<sup>12</sup> See Securities Exchange Act Release No. 60584 (September 3, 2009), 74 FR 45663 (September 3, 2009)(SR-ISE-2009-35).

<sup>13</sup> See Securities Exchange Act Release No. 63955 (March 2, 2011), 76 FR 11533 (March 2, 2011)(SR-ISE-2010-73).

<sup>14</sup> See *supra* note 4.

to qualify as a Qualified Contingent Cross Order.<sup>15</sup> Without such a change, market participants could trade Qualified Contingent Cross Orders for the underlying share equivalent of merely 100 standard contracts.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>16</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b)(5),<sup>17</sup> in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that investors and market participants would benefit from the current rule proposal because it (a) assures that standard options and mini-options on the same underlying security will trade in similar increments and therefore provide market participants meaningful trading opportunities and enable to trade mini-options contracts with greater precision as to price; (b) permit OTP Holders to continue to customize their thresholds based upon underlying symbol by including mini-options in the Risk Limitation Mechanism; and (c) allow market participants to execute Qualified Contingent Cross Orders in mini-options contracts. The Exchange believes that these proposed rule changes will avoid investor confusion that could otherwise develop through the trading of

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<sup>15</sup> It should be noted that the proposed language does not permit the combining of mini-options contracts with standard contracts in order to reach the minimum threshold. For example, an order to trade 900 standard contracts and 1000 mini-options contracts would not qualify for treatment as a Qualified Contingent Cross.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

mini-options contracts alongside standard options. Further, the Exchange believes that establishing these amendments prior to the commencement of trading of mini-options contracts would lessen investor and marketplace confusion.

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. In particular, the proposed amendment to trading differentials is based upon recently approved rule amendments by other option exchanges. Since mini-options contracts are permitted on multiple-listed classes, other exchanges that have received approval to trade mini-options contracts will have the opportunity to similarly amend their rules to incorporate mini-options into risk mechanisms and to accommodate Qualified Contingent Orders in mini-options contracts.

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<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> 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

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

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)<sup>20</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>21</sup> 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.

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)<sup>22</sup> 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:

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<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>22</sup> 15 U.S.C. 78s(b)(2)(B).

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2013-26 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2013-26. This file number should be included on the subject line if e-mail 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 (<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 website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website at [www.nyse.com](http://www.nyse.com). 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-2013-26 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Kevin M. O'Neill  
Deputy Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).

**Text of the Proposed Rule Change:<sup>1</sup>**

**NYSE MKT LLC Rules**

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**Trading of Option Contracts**

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**Section 1. General Rules Relating to Options**

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**Rule 903.**

**Series of Options Open for Trading**

(a) – (h) No Change

***Commentary :***

**.01 - .14** No Change

**.15** *Mini-Options Contract Series*

(a) Series of mini-options contracts overlying 10 shares of stocks, Exchange Traded Fund Shares, Trust Issued Receipts, Exchange Traded Notes, and other Index Linked Securities may be listed for all expirations applicable to 100 share options on each underlying security, provided the underlying security has been designated in Rule 901 Commentary .01.

(b) Strike prices for mini-options contracts overlying 10 shares shall be set at the same level as for regular options. For example, a call series strike price to deliver 10 shares of stock at \$125 per share has a total deliverable value of \$1250, and the strike price will be set at 125.

(c) No additional mini-options series may be added if the underlying security is trading at \$90 or less. The underlying security must trade above \$90 for five consecutive days prior to listing mini-options contracts in an additional expiration month.

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<sup>1</sup> New text is underscored and deleted text is in brackets.

(d) The minimum trading increment for mini-options contracts shall be the same as the minimum trading increment permitted for standard options on the same underlying security. For example, if a security participates in the penny pilot, mini-options on the same underlying security may be quoted and traded in the same minimum increments, e.g., \$0.01 for all quotations in series that are quoted at less than \$3.00 per contract and \$0.05 for all quotations in series that are quoted at \$3.00 per contract or greater, \$0.01 for all SPY option series. Mini-options contracts do not separately need to qualify for the penny pilot.

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#### **Rule 928NY.**

#### **Risk Limitation Mechanism**

(a) –(e) No Change

#### **Commentary :**

**.01 - .08** No Change

**.09** For purposes of Rule 928NY, the terms "class" and "classes" shall include all option series, both puts and calls, overlying the same underlying security. For the purposes of this Rule 928NY only, any series of mini-options contracts shall also be included in the terms "class" and "classes" but only insofar as it relates to the Risk Limitation Mechanism and operation thereof.

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#### **Rule 900.3NY.**

#### **Orders Defined**

(a) – (x) No Change

(y) *Qualified Contingent Cross Order.* A Qualified Contingent Cross Order is comprised of an order to buy or sell at least 1,000 contracts, or 10,000 mini-options contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Commentary .01 below, coupled with a contra-side order to buy or sell an equal number of contracts.

#### **Commentary :**

**.01** No Change

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**Rule 960NY.**

**Trading Differentials**

(a) – (b) No Change

***Commentary :***

**.01 - .02** No Change

**.03** Notwithstanding any other provision of this Rule 960NY, the minimum trading increment for mini-options contracts shall be determined in accordance with Commentary .15(d) to Rule 903.

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