unsolicited written comments from its Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [7] of the Act and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that waiver of these requirements will allow the Exchange to offer the Edge Routed Liquidity Report, with the revised and clarified distinction of the features available in each of the Reports, on or about the Filing's operative date. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would immediately provide additional information necessary for the operation of the Exchange's rules regarding the Edge Routed Liquidity Report. For this reason, the Commission designates the proposed rule change to be operative upon the operative date of the Filing.[11]

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.

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–EDGA–2012–42 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–EDGA–2012–42. 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 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 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. 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–EDGA–2012–42 and should be submitted on or before October 18, 2012.

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

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23768 Filed 9–26–12; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii). 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.

[10] *Id.*

[11] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67907; File No. SR–NYSEMKT–2012–45]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Sections 1203(a) and 1205(b) of the NYSE MKT Company Guide (''Company Guide'') To Increase the Fees Applicable to Issuers Requesting Review of a Determination To Limit or Prohibit the Continued Listing of Their Securities on the Exchange

September 21, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 7, 2012, NYSE MKT LLC (''NYSE MKT'' or ''Exchange'') 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 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 Sections 1203(a) and 1205(b) of the NYSE MKT Company Guide (''Company Guide'') to increase the fees applicable to issuers requesting review of a determination to limit or prohibit the continued listing of their securities on the Exchange. The text of 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.

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

[2] 17 CFR 240.19b–4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Part 12 of the Company Guide provides that issuers may request a written or oral hearing to review a determination by the staff of NYSE Regulation, Inc. (the ''Staff'') to limit or prohibit the continued listing of their securities. A Listing Qualifications Panel (the ''Panel'') comprised of at least two, but generally three, members of the NYSE Amex Committee on Securities (the ''Committee'') conducts the hearing. Currently, Section 1203(a) of the Company Guide provides that the fee charged to the issuer for a written hearing is $4,000, and the fee for an oral hearing is $5,000. Issuers may also request a review of a Panel decision by the Committee as a whole. The Committee as a whole considers the written record and, in its discretion, may hold additional oral hearings. Currently, Section 1205(b) of the Company Guide provides that the fee for the Committee's review is $5,000. The Exchange last increased the delisting appeal fees in March 2004.[3]

The Exchange believes that the fees should be increased at this time because the costs incurred in preparing for and conducting appeals have increased significantly since the fees were last revised in 2004.

The Exchange believes that the costs of an appeal typically far exceed the current permitted fees. In the case of both written hearings and oral hearings, as well as all appeals heard by the Committee as a whole, these costs include the utilization of NYSE Regulation staff resources to prepare for appeals, including the drafting of written submissions, the time devoted to the coordination of appeals by staff from NYSE Euronext's Office of the Corporate Secretary and Legal Department, and the time spent by attorneys in the Legal Department in their role as counsel to the Committee. In addition, in both written and oral hearings, as well as appeals heard by the Committee as a whole, the Exchange incurs expenses in relation to the copying and mailing of documents and other miscellaneous expenses. In the case of oral hearings by a Panel or the Committee as a whole, the Exchange also incurs the additional cost of engaging a court reporter and utilizes Exchange staff and other resources in hosting the oral hearing at the offices of the Exchange.

All of the foregoing expenses have increased since 2004, but another significant factor is that, in many cases, appeals have become more complicated and contentious since the fees were last modified. Consequently, NYSE Regulation staff devote more time now to a typical appeal than was historically the case, including more involvement by NYSE Regulation senior management and attorneys within NYSE Regulation. Furthermore, in response to the increasing complexity of appeals, NYSE Regulation has in recent times engaged outside counsel in connection with appeals more frequently than was historically the case. Accordingly, the Exchange proposes to increase the fees for Panel hearings to $8,000 for a written hearing and $10,000 for an oral hearing and for Committee appeals to $10,000. The text of the proposed amendments to Sections 1203.(a) [sic] and 1205(b) will specify that the revised fees will only be applicable to issuers that initially submit their hearing request on or after September 17, 2012. The current fees will remain in effect for any hearing requests submitted before that date.

While the Exchange does not expect that the proposed revised fees would cover all of its costs associated with the appeal process, the proposed revised fees would cover a much larger portion of those costs than the current appeal fees. In that regard, the Exchange notes that, while the proposed fees would be twice the amount of the current fees, they would be consistent with or lower than the appeal fees of other national securities exchanges, depending on the process that the other national securities exchange uses. For example, Section 804.00 of the NYSE Listed Company Manual provides that a listed company must pay a $20,000 fee in connection with a delisting appeal.

The Exchange also believes that the proposed fee increases are consistent with the provision by the Exchange of a fair procedure for companies to challenge a delisting determination. In particular, the Exchange believes that the proposed amended fees should not deter listed issuers from availing [sic] of their due process rights to appeal Exchange delisting determinations because the increased fees will still be set at a level that will be affordable for listed companies.

2. Statutory Basis

Securities Exchange Act of 1934 (the ''Act''),[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] 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.

Specifically, the proposed fee increases are consistent with the investor protection objectives of Section 6(b)(5) in that they are designed to provide adequate resources for appropriate preparation for and conduct of Panel hearings and Committee appeals, which help to assure that the Exchange's continued listing standards are properly enforced and investors in companies subject to delisting are protected.

In addition, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities. In particular, the Exchange notes that the proposed fee increases constitute a reasonable allocation of fees under Section 6(b)(4) because: (i) Even after the proposed increases, the Exchange's appeal fees will still only partially cover its actual costs of conducting appeals; and (ii) the Exchange only charges appeal fees to companies that make an appeal.

The Exchange also believes that the proposed fee increases are consistent with Section 6(b)(7) of the Act[7] in that the proposed fees are in accordance with the provisions of Section 6(d) of the Act,[8] and in general, are consistent with the provision by the Exchange of a fair procedure for the prohibition or limitation by the exchange of any

[3] *See* Securities Exchange Act Release No. 49344 (March 1, 2004), 69 FR 10773 (March 8, 2004) (SR–Amex–2003–111).

[4] 15 U.S.C. 78a.

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

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(7).

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

person with respect to access to services offered by the Exchange. In particular, the Exchange believes that the proposed amended fees should not deter listed issuers from availing [sic] of their due process rights to appeal Exchange delisting determinations because the increased fees will still be set a level that will be affordable for listed companies.

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.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [9] of the Act and subparagraph (f)(2) of Rule 19b–4 [10] thereunder, because it establishes a due, fee, or other charge imposed by NYSE MKT.

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.

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–2012–45 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–2012–45. 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 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 a.m. and 3 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2012–45 and should be submitted on or before October 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23766 Filed 9–26–12; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67903; File No. SR–CBOE–2012–082]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Small Order Preference Priority Overlay

September 21, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2012, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') 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 Exchange. The Exchange has designated the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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 the Substance of the Proposed Rule Change

The Exchange is proposing to amend Rules 6.45A, *Priority and Allocation of Equity Option Trades on the CBOE Hybrid System,* and 6.45B, *Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System,* to expand on the description of the existing operation of the small order preference priority overlay. The text of the proposed rule change is available on the Exchange's Web site (*www.cboe.org/Legal*), at the Exchange's Office of the Secretary 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 Exchange 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

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).