

states that allowing certain RHO orders (ISOs designated RHO) and all non-RHO orders to interact (and, in the case of non-RHO orders, to be added to the BATS Book where there is no contra-side interest) during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process will create a more orderly opening and facilitate the price formation process because Users will have the option to enter orders that will either participate in the Opening Process or immediately interact with liquidity from the Pre-Opening Session, allowing trading to continue while the Exchange is waiting for the conditions necessary to complete the Opening Process.⁴⁰

The Exchange also believes that certain features of the Opening Process and Re-Opening Process are consistent with the Act. The Exchange states that the proposed exclusion of BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, and Minimum Quantity Orders from participation in the Opening Process is consistent with Section 6(b)(5) of the Act because such order types do not make sense in the context of queuing orders for the Opening Process.⁴¹ Moreover, according to the Exchange, its proposal to allow an ISO marked RHO to execute against eligible Pre-Opening Session interest during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, and then convert the unexecuted portion of the order into a non-ISO for queuing for participation in the Opening Process, is consistent with the requirements of Regulation NMS.⁴² According to the Exchange, after 9:30 a.m. Eastern Time, there may be a protected bid or offer displayed by the Exchange that a User who has submitted an ISO designated RHO would like to execute against, and this aspect of the proposal would permit such an execution to occur prior to the ISO being converted into a non-ISO and queued for participation in the Opening Process.⁴³

In addition, the Exchange states that the proposed Contingent Opening Process is designed 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 because it will help to ensure that the Exchange opens trading in a fair and orderly manner by providing a means for opening trading in a non-BATS-listed security when

there is no two-sided NBBO in the security for fifteen minutes after the beginning of Regular Trading Hours.⁴⁴ The Exchange believes that fifteen minutes is a reasonable amount of time to wait for the establishment of a two-sided NBBO because it marks a point at which the market in a security has had a sufficient amount of time to develop while simultaneously providing a reasonable cut-off point at which the Exchange may open the security for Regular Trading Hours trading.⁴⁵ The Exchange also believes that handling all orders queued for participation in the Opening Process in time sequence after fifteen minutes will help to ensure that trading opens in as fair and orderly a manner as possible.⁴⁶

Lastly, the Exchange states that the proposed Opening Process will provide Users with greater control and flexibility when entering orders in non-BATS-listed securities by allowing them to enter orders for participation in Regular Hours Trading during the Pre-Opening Session, rather than permitting them to enter such orders only after Regular Trading Hours have begun.⁴⁷ According to the Exchange, allowing Users that do not want to participate in the Pre-Opening Session to enter RHO orders prior to Regular Trading Hours will simplify the order entry process for such Users and remove impediments to a free and open market.⁴⁸

For the reasons noted above, the Commission finds that the proposed rule change is consistent with the Act, including Section 6(b)(5) of the Act,⁴⁹ which requires, among other things, that the rules of an exchange be designed 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.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁵⁰ that the proposed rule change, SR-BATS-2014-037, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵¹

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73476; File No. SR-EDGX-2014-24]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.12, Limitation of Liability

October 30, 2014.

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 October 27, 2014, EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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 Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it effective upon filing with the Commission. 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 filed a proposal to amend Rule 11.12, Limitation of Liability, to harmonize its liability caps with those set forth under BATS Exchange, Inc. (“BATS”) Rule 11.16 and BATS Y-Exchange, Inc. (“BYX”) Rule 11.16.⁵

The text of the proposed rule change is available at the Exchange’s Web site at <http://www.directedge.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

⁵¹ 17 CFR 200.30-3(a)(12).

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)(iii).

⁵ See BATS Rule 11.16(d)(1)–(3); BYX Rule 11.16(d)(1)–(3).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*; see also 17 CFR 242.600.

⁴³ See Notice, *supra* note 3, 79 FR at 56424.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ 15 U.S.C. 78f(b)(5).

⁵⁰ 15 U.S.C. 78s(b)(2).

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 these 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

The Exchange proposes to amend Rule 11.12, Limitation of Liability, to harmonize its liability caps with those set forth under BATS Rule 11.16 and BYX Rule 11.16.⁶ Earlier this year, the Exchange and its affiliate EDGA Exchange, Inc. ("EDGA") received approval to effect a merger (the "Merger") of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS and BYX (together with BATS, BYX, EDGA and EDGX, the "BGM Affiliated Exchanges").⁷ In the context of the Merger, the BGM Affiliated Exchanges are working to align certain rules, retaining only intended differences between the BGM Affiliated Exchanges. As part of this effort, BATS and BYX recently filed proposed rule changes with the Commission to amend paragraph (f) of Rule 11.16 to align with EDGA Rule 11.12(d)(3) and (e) as well as EDGX Rule 11.12(d)(3) and (e).⁸ Thus, the proposal

set forth below harmonizes remaining sections of Exchange Rule 11.12 and BATS and BYX Rules 11.16 by aligning the liability caps in order to provide consistent member reimbursement requirements for users of the BGM Affiliated Exchanges.⁹

Rule 11.12 currently states that, except as provided in subsection (d) of the Rule, the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the Exchange or its use. Exchange Rule 11.16(d) provides a limited exception to its general limitation of liability that allows for the payment of compensation to Members for "losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming or the negligent acts or omissions of its employees" ("Exchange Systems Issues"), subject to certain conditions. Subsection (d)(1) of Rule 11.12 limits the aggregate limits of all claims made by all Members during a single calendar month to the larger of \$500,000, or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

The Exchange now proposes to renumber subsection (d)(1) of the Rule 11.12 and adopt new subsections (d)(1) and (2) under Rule 11.12 to harmonize its liability caps with those set forth under existing rules of BATS and BYX.¹⁰ Under the proposed rule change, the Exchange would cap its liability for Exchange Systems Issues under proposed Rule 11.12(d)(1) and (2): (i) To a single Member at the greater of \$100,000 or the amount recovered under any applicable insurance policy on a single trading day; (ii) to all Members at the greater of \$250,000 or the amount recovered under any applicable insurance policy on a single trading day. Current Rule 11.12(d)(1) would be renumbered as subsection (d)(3) and continue to cap the Exchange's liability to all Members at the greater of \$500,000 or the amount recovered under any applicable insurance policy in a single calendar month.¹¹

or omissions of the employees, of such Trading Centers.

⁹ The Exchange understands that EDGA is to file a proposed rule change with the Commission to adopt similar requirements.

¹⁰ See *supra* note 5.

¹¹ The Exchange notes that under renumbered Rule 11.12(g)(4) any compensation paid to Members from reimbursement recovered from a Trading Center for a routed order will not count against the Exchange's liability limits set forth in Rule 11.12(d), nor any applicable insurance maintained by the Exchange. Securities Exchange Act Release Nos. 71061 (December 12, 2013), 78 FR 76685 (December 18, 2013) (SR-EDGA-2013-36) (Notice of Filing and Immediate Effectiveness of Proposed Rule

The Exchange also proposes to amend Rule 11.12(d)(2) to align with the proposed liability caps for a single trading day. Specifically, proposed Rule 11.12(d)(2) would be amended to clarify that, to the extent that all claims resulting from Exchange Systems Issues cannot be fully satisfied because in the aggregate they exceed the applicable maximum amount of liability provided for, then the Exchange proposes to allocate the maximum amount among all such claims arising on a single trading day or during a single calendar month, as applicable, based on the proportion that each such claim bears to the sum of all such claims. Rule 11.12(d)(2) would also be renumbered as Rule 11.12(e).

The Exchange also proposes to amend Rule 11.12(e)(4) to align with the amended liability caps as well as to renumber other sections within Rule 11.12 to mirror BATS Rule 11.16 and BYX Rule 11.16.

Implementation Date

The Exchange intends to implement the proposed rule change on or about November 6, 2014, which is the anticipated operative date of recently filed BATS and BYX proposed rule changes to align BATS and BYX Rules 11.16 with EDGA and EDGX Rules 11.12(d)(3) and (e).¹² The Exchange will announce the implementation of the proposed rule change via a trading notice to be posted on the Exchange's Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act¹³ and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ in that it is designed 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, protect investors and the public interest. The proposal, in effect, would allow the Exchange to ensure that compensation for a single incident did not exceed the monthly cap of \$500,000, thereby providing [sic] enabling the Exchange to possibly compensate Members for instances on multiple trading days per month subject to Rule 11.12(d)(3). The Exchange believes that

Change To Amend EDGX Rule 11.12, Limitations of Liability); and 71062 (December 12, 2013), 78 FR 76693 (December 18, 2013) (SR-EDGX-2013-45) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 11.12, Limitations of Liability).

¹² See *supra* note 8.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

⁶ *Id.*

⁷ See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43; SR-EDGA-2013-34).

⁸ See Securities Exchange Act Release Nos. 73356 (October 15, 2014) (SR-BATS-2014-045); and 73357 (October 15, 2014) (SR-BYX-2014-027). In sum, BATS and BYX amended Rule 11.16 to align with Exchange Rule 11.12 to provide members with additional time within which to submit a written claim for compensation for "losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming or the negligent acts or omissions of its employees" and add a new paragraph (g) to Rule 11.16 to permit the Exchange, subject to certain conditions and limitations, to compensate Members for certain losses incurred in connection with orders or portions of orders routed by the Exchange through its affiliated routing broker-dealer, BATS Trading, Inc., to Trading Centers where such losses are claimed by the Member to have resulted directly from a malfunction of the physical equipment, devices and/or programming, or the negligent acts

the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing rules of BATS and BYX.¹⁵ The proposed rule change is intended to align the liability caps for Member reimbursements with that currently provided by BATS and BYX in order to provide a consistent rules across the BGM Affiliated Exchanges. Consistent rules, in turn, will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA and EDGX. The proposed rule change would provide greater harmonization between EDGX and EDGA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. The Exchange believes that the proposed rule changes will not burden intramarket competition because all Members would be subject to the same liability caps for claims resulting from Exchange Systems Issues. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization among Exchange and BATS and BYX rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members of the BGM Affiliated Exchanges.

C. 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.

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 Act¹⁶ and Rule 19b-4(f)(6) thereunder.¹⁷ 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁹ 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. Waiver of the 30-day operative delay would provide consistent rules across the BGM Affiliated Exchanges which will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA, BATS and BYX. In addition, the Commission notes that the proposed rule change is identical to the existing rules of BATS and BYX. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.²⁰ The Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

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.

¹⁸ In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6)(iii).

²⁰ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-EDGX-2014-24 on the subject line.

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-EDGX-2014-24. 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 10:00 a.m. and 3:00 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-EDGX-2014-24 and should be submitted on or November 26, 2014.

¹⁵ See *supra* note 5.

¹⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁷ 17 CFR 240.19b-4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73488; File No. SR-C2-2014-020]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Automatic Handling Process in No-Bid Series

October 31, 2014.

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 October 22, 2014, C2 Options Exchange, Incorporated (the “Exchange” or “C2”) 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 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 its rules regarding its automatic order handling process. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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 these 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 aspects of such statements.

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

1. Purpose

The Exchange proposes to amend its rules regarding its automatic order handling process. The proposed rule change seeks to modify subparagraph (h) to Rule 6.12, which sets forth how the C2 System (the “System”)³ handles market orders to sell in option series for which the national best bid in the series is zero (“no-bid series”).⁴ Currently, if the System receives during the trading day or has resting in the electronic book (the “Book”)⁵ after the opening of trading a market order to sell in a no-bid series, it handles the order as follows:

- If the Exchange best offer in that series is less than or equal to \$0.30, then the System will consider, for the remainder of the trading day, the market order as a limit order to sell with a limit price equal to the minimum trading increment applicable to the series and enter the order into the Book behind limit orders to sell at the minimum increment that are already resting in the Book.

- If the Exchange best offer in that series is greater than \$0.30, then the market order will be cancelled.

Based on experience since the implementation of this parameter, the Exchange now proposes to change the parameter from \$0.30 to \$0.50. The Exchange believes that the automatic handling of market orders to sell in no-bid series if the Exchange best offer is less than or equal to \$0.50 would reduce the number of orders that are automatically cancelled. Additionally, the \$0.50 threshold serves as a protection feature for investors in certain situations, such as when a series is no-bid because the last bid traded just prior to the entry of the market order to sell. The purpose of this threshold is to limit the automatic booking of market orders to sell at minimum increments to

only those for true zero-bid options, as options in no-bid series with an offer of more than \$0.50 are less likely to be worthless.

For example, if the CBOE Hybrid System receives a market order to sell in a no-bid series with a minimum increment of \$0.01 and the Exchange best offer is \$0.01, the System will consider, for the remainder of the trading day, the order as a limit order with a price of \$0.01 and submit it to the Book behind other limit orders to sell at the minimum increment that are already resting in the Book. At that point, even if the series is no-bid because, for example, the last bid just traded and the limit order trades at \$0.01, the next bid entered after the trade would not be higher than \$0.01.⁶

However, if the System receives a market order to sell in a no-bid series with a minimum increment of \$0.01 and the Exchange best offer is \$1.20 (because, for example, the last bid of \$1.00 just traded and a new bid has not yet populated the Exchange's quote), the System will instead cancel the order. It would be unfair to the entering firm to let its market order trade as a limit order for \$0.01 because, for example, the firm submitted the order during the brief time when there were no disseminated bids in a series trading significantly higher than the minimum increment.

The Exchange believes the threshold of \$0.50 is reasonable. The Exchange notes that this threshold is less than the current acceptable price range (“APR”) parameter for series with a bid price of less than \$100.00.⁷ Pursuant to the price check provision in Rule 6.17⁸ the

⁶ If the order does not execute during the trading day as a limit order and remains outstanding after the close of trading (i.e., a GTC order), the System at that time will no longer consider the order as a limit order and will again handle the order as a market order to sell after the close of trading. The market order will stay on the Book until the opening of the next trading day (or until cancelled), at which point it may execute during the open or, if it remains unexecuted after the opening of trading, it will either execute with the best bid at the time or, if the series is still no-bid, again be handled pursuant to proposed Rule 6.12(h).

⁷ The acceptable APR parameter is determined by the Exchange on a class-by-class basis. See Rule 6.17 and C2 Regulatory Circular RG14-020 (Operational System Settings—APR and OEPW).

⁸ Rule 6.17 also provides that the System will not automatically execute eligible orders that are marketable if the execution would follow an initial partial execution on the Exchange and would be at a subsequent price that is not within an acceptable tick distance from the initial execution. The APR for purposes of Rule 6.17 is determined by the Exchange on a class-by-class basis and may not be less than \$0.375 between the bid and offer for each option contract for which the bid is less than \$2, \$0.60 where the bid is at least \$2 but does not exceed \$5, \$0.75 where the bid is more than \$5 but does not exceed \$10, \$1.20 where the bid is more than \$10 but does not exceed \$20, and \$1.50 where

Continued

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The System is the automated trading system used by the Exchange for the trading of options contracts.

⁴ The Exchange notes that, for singly listed series, the national best bid is equivalent to the Exchange's best bid and the national best offer is equivalent to the Exchange's best offer.

⁵ For example, the Exchange receives a market order to sell prior to the opening of a series and the series opens with a sell market order imbalance pursuant to Rule 6.11(e)(4). When the series opens the market order to sell, which was resting in the book prior to the opening of the series, will be routed according to the no-bid procedures in Rule 6.12.