

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83601; File No. SR-NYSE-2018-31)

July 6, 2018

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to Require Certain Member Organizations to Participate in Scheduled Market-Wide Circuit Breaker Testing

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on June 26, 2018, the New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change. On July 5, 2018, the Exchange filed Amendment No. 1 to 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, as amended, from interested persons.

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

The Exchange proposes to require certain member organizations to participate in scheduled Market-Wide Circuit Breaker testing. Amendment No.1 supersedes the original filing in its entirety. 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.

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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.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 49 to require certain member organizations to participate in scheduled Market-Wide Circuit Breaker ("MWCB") testing.

MWCBs are important, automatic mechanisms that are invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. MWCBs are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity. All U.S. equity and options exchanges have established procedures that allow for trading to be halted, or under extreme circumstances, for markets to be closed before the normal close of trading for a trading day. MWCBs provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to NYSE Rule 80B (Trading Halts Due to Extraordinary Market Volatility), a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2) and 20% (Level 3). A market

decline that triggers a Level 1 or Level 2 circuit breaker after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 circuit breaker, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

The Security [sic] Information Processors (“SIP”) for the U.S. equity markets have established a quarterly MWCB testing schedule.<sup>4</sup> On the scheduled dates, the Consolidated Tape Association Plan (“CTA Plan”) and the Consolidated Quotation Plan (“CQ” Plan”) (collectively “the CTA/CQ Plans”)<sup>5</sup> and the Nasdaq/ UTP Plan<sup>6</sup> conduct MWCB testing that allows market participants across the securities industry to test their ability to receive messages associated with MWCBs, including decline status, halt and resume messages. Market participants are also able to participate in testing of re-opening auctions following market-wide circuit breaker halts.

The Exchange believes the quarterly tests are critical to ensure that securities markets halt trading and subsequently re-open in a manner consistent with the MWCB rules. To that end, the Exchange believes that certain member organizations should be required to participate in scheduled MWCB tests. The proposed rule would provide the Exchange with authority to

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<sup>4</sup> See [https://www.nyse.com/publicdocs/ctaplan/notifications/trader-update/CTS\\_CQS%202018\\_Failover%20Testing\\_Q1.pdf](https://www.nyse.com/publicdocs/ctaplan/notifications/trader-update/CTS_CQS%202018_Failover%20Testing_Q1.pdf).

<sup>5</sup> The CTA/CQ Plans govern the collection, consolidation, processing and dissemination of last sale and quotation information for Network A and Network B securities. Network A refers to securities listed on NYSE and Network B refers to securities listed on exchanges other than the Nasdaq Stock Market LLC (“Nasdaq”).

<sup>6</sup> The Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“Nasdaq/UTP Plan”) governs the collection, consolidation, processing, and dissemination of last sale and quotation information for Network C securities. Network C refers to securities listed on Nasdaq.

require participation by member organizations in industry-wide tests to validate that their processing in the event of MWCB is as expected within their systems.

In 2015, in connection with Regulation Systems Compliance and Integrity (“Regulation SCI”), the Exchange adopted rules to require certain member organizations to participate in testing of the operation of the Exchange’s business continuity and disaster recovery plans. The Exchange similarly believes that requiring member organizations to participate in mandatory MWCB testing because they, for example, account for a significant portion of the Exchange’s overall volume or maintain exclusive responsibilities with respect to Exchange-listed securities would be a reasonable means to ensure the maintenance of a fair and orderly market. Because member organizations required to participate in Regulation SCI testing have already been identified as essential for the maintenance of a fair and orderly market, the Exchange believes these same member organizations should also be required to participate in scheduled MWCB testing. Accordingly, the Exchange proposes new Rule 49(c)(1), which would provide that each member organization notified of its obligation to participate in mandatory testing pursuant to standards established under paragraphs (b)(1) and (3)<sup>7</sup> of Rule 49 would also be required to participate in scheduled MWCB testing, in the manner and frequency specified by the Exchange.

Currently, the annual Regulation SCI test is conducted in October of each calendar year and at least three (3) months prior to such test, the Exchange provides a notice to member organizations that are required to participate in such test (“SCI Notice”). The Exchange

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<sup>7</sup> Paragraph (b)(1) of Rule 49 establishes standards for the designation of member organizations that the Exchange determines are necessary to participate in business continuity and disaster recovery plans testing in connection with Regulation SCI. See Securities Exchange Act Release No. 76346 (November 4, 2015), 80 FR 69765 (November 10, 2015).

proposes that future SCI Notices would also include notification to member organizations of their obligation to participate in a scheduled MWCB test.

Finally, proposed Rule 49(c)(2) would provide that member organizations not required to participate in a scheduled MWCB test pursuant to standards established in paragraphs (b)(1) and (3) of Rule 49 would be permitted to participate in a scheduled MWCB test.

The Exchange proposes to implement the proposed rule change at the same time that the Exchange notifies member organizations of required participation in the 2019 Regulation SCI industry test.<sup>8</sup> The 2019 SCI Notice would identify the member organizations that would be required to participate in scheduled MWCB testing. Member organizations notified in the 2019 SCI Notice of their obligation to participate in a scheduled MWCB test would be required to participate in such test on at least one of the testing dates established by the SIPs.<sup>9</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market

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<sup>8</sup> Member organizations were notified of required participation for the 2018 Regulation SCI test scheduled for October 13, 2018 in April 2018. As noted above, the Exchange encourages all member organizations to test voluntarily but believes that implementing the new rule in 2019 would provide member organizations with adequate time to prepare for a scheduled MWCB test.

<sup>9</sup> See *supra*, note 4.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule requiring member organizations to participate in mandatory MWCB testing would enable the Exchange, participating member organizations, and others to evaluate the readiness of such member organizations in the event of unanticipated market volatility. The proposal would also ensure that the member organizations necessary to ensure the maintenance of a fair and orderly market are properly designated as such designation would be determined by the same clear and objective standards used by the Exchange currently to determine which member organizations are required to participate in mandatory Regulation SCI testing.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that requiring participation in MWCB testing does not impose an undue burden on competition that is not necessary or appropriate because member organizations required to participate in MWCB testing under the proposal have been designated by the Exchange as essential to the maintenance of a fair and orderly market, such that their demonstrated ability to halt and subsequently re-open trading in response to an emergency should contribute to a fair and orderly market for the benefit of all market participants.

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<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-NYSE-2018-31 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-NYSE-2018-31. 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2018-31 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>12</sup>

Eduardo A. Aleman  
Assistant Secretary

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