

Additions: Underlined  
Deletions: [Bracketed]

Rules of NYSE MKT LLC

**Office Rules**

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**Section 7. Conduct of Accounts**

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**Rule 431. Exchange Backup Systems and Mandatory Testing**

(a) The Exchange will establish standards for the designation of [members and member organizations]ATP Holders it reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange's business continuity and disaster recovery plans.

(b) [A member or member organization]An ATP Holder designated pursuant to standards established in paragraph (a) of this Rule will be required to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which will occur not less than once every 12 months.

(c) [Designated Market Makers,] Specialists and e-Specialists that have been determined by the Exchange to contribute a meaningful percentage of volume in securities they trade, measured on a quarterly or monthly basis, will be required to participate in scheduled functional and performance testing. The Exchange may also consider other factors in determining the [members and member organizations]ATP Holders that will be required to participate in scheduled functional and performance testing, including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or [members or member organizations]ATP Holders who collectively account for a certain percentage of market share on the Exchange.

(d) At least three (3) months prior to a scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans, the Exchange will publish the criteria to be used by the Exchange to determine which [members or member organizations]ATP Holders will be required to participate in such testing, and notify those [members or member organizations]ATP Holders that are required to participate based on such criteria.

(e) [Members or member organizations]ATP Holders not designated pursuant to standards established in paragraph (a) of this Rule are permitted to connect to the Exchange's backup systems and may participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans.

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## **Equities Rules**

### **Rule 0 - Equities . Applicability and Phase-In**

Except to the extent particular Non-Equities Rules are expressly designated herein as applicable, the Equities Rules (as such rules may be amended from time to time) shall govern all transactions conducted on the Equities Trading Systems. For the avoidance of doubt, the following Non-Equities Rules shall be applicable to transactions conducted on the Equities Trading Systems: Rules 41[, 431] and Section 9A or 9B of the Office Rules, as applicable. Rules 46 - Equities to 294 - Equities, inclusive, shall apply to all Exchange Contracts made on the Equities Trading Systems, and to the extent determined to be applicable, to Exchange Contracts not made on the Exchange.

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### **Rule 49 - Equities. Emergency Powers**

*This version of Rule 49- Equities will remain operative until the proposed rule changes described in SR-NYSEMKT-2016-68 are approved and the Exchange files a separate proposed rule change to delete this version of Rule 49 – Equities and preamble and to establish the operative date of paragraph (a) of “Rule 49 – Equities. Exchange Business Continuity and Disaster Recovery Plans and Mandatory Testing.” Subject to such separate proposed rule change, the Exchange will announce via Trader Update the operative date of the deletion of this Rule and implementation of paragraph (a) of Rule 49 – Equities. Exchange Business Continuity and Disaster Recovery Plans and Mandatory Testing.*

(a)(1) In the event of an emergency, a qualified Exchange officer shall have the authority to declare an emergency condition with respect to trading on or through the systems and facilities of the Exchange ("Emergency Condition") and designate NYSE Arca, Inc. ("NYSE Arca") to perform the functions set forth in paragraph (b)(2)(A) on behalf of and at the direction of the Exchange.

(2) No declaration of an Emergency Condition shall be made pursuant to paragraph (a)(1) unless (A) there exists a regional or national emergency that would prevent the Exchange from operating normally, and (B) such declaration is necessary so that the securities markets, in general, may continue to operate and trading in Exchange-listed securities, in particular, may continue to occur in a manner consistent with the protection of investors and in pursuit of the public interest.

(3) Definitions:

(A) The term "emergency" as used herein means an "emergency" as defined in Section 12(k)(7) of the Securities Exchange Act of 1934, as amended.

(B) The term "qualified Exchange officer" as used herein means the ICE Chief Executive Officer or his or her designee, or the Chief Regulatory Officer of the Exchange or his or her designee. In the event that none of these individuals is able to act due to incapacitation, the most senior surviving officer of ICE or the Exchange shall be a "qualified Exchange officer" for purposes of this rule.

(b)(1) When an Emergency Condition is declared under paragraph (a), the Exchange:

(A) shall halt all trading conducted on the Exchange's systems and facilities and shall not route any unexecuted orders to NYSE Arca;

(B) shall purge any unexecuted orders from the Exchange's own systems and facilities as soon as practicable following declaration of the Emergency Condition.

(2)(A) Beginning on the next trading day following the declaration of the Emergency Condition, NYSE Arca shall, on behalf of and at the direction of the Exchange, disseminate:

(i) the official opening, re-opening, and closing trades of Exchange-listed securities to the Consolidated Tape as messages of the Exchange, and

(ii) any notification for Exchange-listed securities to the Consolidated Quotation System of a regulatory halt and resumption of trading thereafter, trading pause and resumption of trading thereafter, and Short Sale Price Test trigger and lifting thereafter, as messages of the Exchange.

(B) Bids and offers for Exchange-listed securities entered on or through the systems and facilities of NYSE Arca during the Emergency Condition shall be reported to the Consolidated Quotation System as bids and offers of NYSE Arca, except that the opening quote shall be reported to the Consolidated Quotation System as a bid and/or offer of both the Exchange and NYSE Arca and any re-opening quote shall be reported to the Consolidated Quotation System as a bid and/or offer of the Exchange. Bids and offers for Exchange-listed securities executed on or through the systems and facilities of NYSE Arca during the Emergency Condition shall be reported to the Consolidated Tape as executions of NYSE Arca, except for executions in the opening, re-opening, or closing auctions, which shall be reported as Exchange executions and Exchange volume only.

(3) Members and member organizations wishing to trade Exchange-listed securities during an Emergency Condition are responsible for having contingency plans for establishing connectivity to NYSE Arca and changing the routing instructions for their order entry systems to send bids and offers in Exchange-listed securities to NYSE Arca.

(4) During an Emergency Condition, all trading of Exchange-listed securities entered or executed on or through the systems and facilities of NYSE Arca shall be subject to the NYSE Arca Equities Rules (including but not limited to the opening, re-opening, and closing auction processes applicable to securities for which NYSE Arca is the primary listing market set forth in NYSE Arca Equities Rule 7.35), except that the Exchange's listing requirements for its listed securities shall continue to apply.

(c)(1) In connection with taking action under this rule, a qualified Exchange officer shall make reasonable efforts to consult with the Securities and Exchange Commission before taking such action, or, if the qualified Exchange officer is unable to consult prior to acting, as promptly thereafter as practicable under the circumstances.

(2) The authority granted pursuant to this rule shall be operative for up to 10 calendar days from the date that the Exchange invokes such authority. The Exchange may request that the initial 10-calendar-day period be extended for a specific amount of time by submission of a rule filing pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, as amended. Such extension shall not take effect except upon approval of such a filing by the Securities and Exchange Commission.

(3) Actions taken pursuant to this rule may be terminated by the Exchange at any time. The Exchange shall provide adequate prior notice to members, member organizations, Sponsored Participants and investors regarding its intention to terminate any such action.

#### **Rule 49 - Equities. Exchange Business Continuity and Disaster Recovery Plans and Mandatory Testing**

*The Exchange will file a separate proposed rule change to establish the operative date of paragraph (a) of this version of Rule 49 – Equities and to delete “Rule 49 - Equities. Emergency Powers” and this preamble. Until such time, “Rule 49 – Equities. Emergency Powers” will remain operative. Subject to such separate proposed rule change, the Exchange will announce via Trader Update the operative date of paragraph (a) of this Rule and deletion of “Rule 49 – Equities. Emergency Powers.”*

##### (a) Disaster Recovery Facility

(1) As part of its business continuity and disaster recovery plans, the Exchange maintains a Disaster Recovery Facility, which is a secondary data center located in a geographically diverse location.

(2) If the Exchange determines under Rule 51 - Equities to trade Exchange-traded securities on its Disaster Recovery Facility:

(A) The 11 Wall Street facilities will not be available for trading.

(B) Opening and reopening auctions will be subject to Rule 123D(a)(2) – (6) - Equities and closing auctions will be subject to Supplementary Material .10 to Rule 123C - Equities.

(C) Any unexecuted orders entered into Exchange systems before trading on the Disaster Recovery Facility begins will be deemed cancelled and will be purged from Exchange systems.

(D) Member organizations registered as Designated Market Makers (“DMM”) will not be subject to any DMM obligations or benefits under Exchange rules while securities trade on the Disaster Recovery Facility.

(3) Member organizations wishing to trade on the Exchange’s Disaster Recovery Facility are responsible for having contingency plans for establishing connectivity to such facility and changing the routing instructions for their order entry systems to send bids and offers in Exchange-traded securities to such facility.

(b)(N) Exchange Backup Systems and Mandatory Testing

(1) The Exchange will establish standards for the designation of member organizations it reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange’s business continuity and disaster recovery plans.

(2) Member organizations designated pursuant to standards established in paragraph (b)(1) of this Rule will be required to participate in scheduled functional and performance testing of the Exchange’s business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.

(3) Designated Market Makers that have been determined by the Exchange to contribute a meaningful percentage of the Exchange’s overall volume, measured on a quarterly or monthly basis, will be required to participate in scheduled functional and performance testing. The Exchange may also consider other factors in determining the member organizations that will be required to participate in scheduled functional and performance testing, including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or member organizations who collectively account for a certain percentage of market share on the Exchange.

(4) At least three (3) months prior to a scheduled functional and performance testing of the Exchange’s business continuity and disaster recovery plans, the Exchange will publish the criteria to be used by the Exchange to determine which member organizations will be required to participate in such testing, and notify those member organizations that are required to participate based on such criteria.

(5) Member organizations not designated pursuant to standards established in paragraph (b)(1) of this Rule are permitted to connect to the Exchange's backup systems and may participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans.

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### **Rule 51 - Equities. Hours for Business**

(a) Except as may be otherwise determined by the Board of Directors as to particular days, the Exchange shall be open for the transaction of business on every business day, excluding Saturdays; (a) for a 9:30 a.m. to 4:00 p.m. trading session; (b) for the purposes of 'Off-Hours Trading' (as Rule 900 - Equities (Off-Hours Trading: Applicability and Definitions) defines that term), during such hours as the Exchange may from time to time specify; and (c) during such hours as may be specified by Exchange rule.

(b) Except as may be otherwise determined by the Exchange Board of Directors, the Chief Executive Officer ("CEO") of the Exchange may take any of the following actions [shall have the power to]:

(i) halt or suspend trading in some or all securities traded on the Exchange;

(ii) extend the hours for the transaction of business on the Exchange;

(iii) close some or all Exchange facilities; [or]

(iv) determine the duration of any halt, suspension or closing undertaken pursuant to this rule[.] ;or

(v) determine to trade securities on the Exchange's Disaster Recovery Facility pursuant to Rule 49 – Equities.

(c) The CEO shall take any of the actions described in paragraph (b) above only when he deems such action to be necessary or appropriate for the maintenance of a fair and orderly market, or the protection of investors or otherwise in the public interest, due to extraordinary circumstances such as (1) actual or threatened physical danger, severe climatic conditions, civil unrest, terrorism, acts of war, or loss or interruption of facilities utilized by the Exchange, (2) a request by a governmental agency or official, or (3) a period of mourning or recognition for a person or event. [In considering such action, the CEO shall consult with such available Executive Floor Governors as he deems appropriate under the circumstances.]

(d) The CEO shall notify the Exchange Board of actions taken pursuant to this Rule, except for a period of mourning or recognition for a person or event, as soon thereafter as is feasible.

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