Exchange further believes that without the requested relief, Floor brokers would be compromised in their ability to conduct their regular course of business on the Trading Floor, which could adversely impact the market generally and investor confidence during this time of unprecedented weather disruptions. In particular, for Floor brokers, because they operate as agents for customers, their inability to communicate with customers could compromise their ability to represent public orders on the Trading Floor.

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

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 prior to 30 days from the date of filing, the Commission hereby waives the 30-day operative delay and designates the proposed rule 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.

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);
- Send an email to rule-comments@sec.gov. Please include File Number SR–NYSEMKT–2012–82 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–2012–82. This file number should be included on the subject line. 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–NYSEMKT–2012–82 and should be submitted on or before January 11, 2013.

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

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Temporary Suspension of Those Aspects of Rules 36.20 and 36.21 That Would Not Permit Floor Brokers To Use Personal Portable Phone Devices on the Trading Floor Following the Aftermath of Hurricane Sandy Until the Earlier of When Phone Service Is Fully Restored or Friday, January 18, 2013

December 17, 2012

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) and Rule 19b-4 thereunder, notice is hereby given that December 13, 2012, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with

20 For 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).
the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II 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 extend the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor following the aftermath of Hurricane Sandy until the earlier of when phone service is fully restored or Friday, January 18, 2013. 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.

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

On Thursday, November 1, 2012, the Exchange filed a rule proposal to temporarily suspend those aspects of Rules 36.20, 36.21, and 36.30 that would not permit Floor brokers and Designated Market Makers (“DMMs”) to use personal portable phone devices on the Trading Floor following the aftermath of Hurricane Sandy and during the period that phone service was not fully functional. Pursuant to that filing, all other aspects of those rules remained applicable and the temporary suspensions of Rule 36 requirements were in effect beginning the first day trading resumed following Hurricane Sandy until Friday, November 2, 2012. On November 5, 2012, although power had been restored to the downtown Manhattan vicinity, other services were not yet fully operational. Among other things, the telephone services provided by third-party carriers to the Exchange were still not fully operational on the Trading Floor, which continued to impact the ability of Floor members to communicate from the Trading Floor as permitted by Rule 36. Accordingly, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20, 36.21, and 36.30 that would not permit Floor brokers and DMMs to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or November 9, 2012, which was subject to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.

On November 9, 2012, the Exchange filed an additional extension of the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or November 9, 2012, a subject to the same terms and conditions of the original temporary suspension that was filed. On November 19, 2012, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or Friday, December 14, 2012, again subject to the same terms and conditions of the original temporary suspension that was filed. The continued extension of the temporary suspension was needed because of the ongoing intermittent phone and internet service. Specifically, the wired telephone lines and internet connections for Floor brokers continue to not be functional, many Exchange authorized and provided portable phones continue to not be functional and therefore Floor brokers still could not consistently use the Exchange authorized and provided portable phones, pursuant to Rules 36.20 and 36.21. The Exchange now seeks another extension of the temporary suspension of those aspects of Rules 36.20 and 36.21 because of ongoing telephone and Internet issues.

The Exchange has been advised by its third-party carrier that the damage to the telephone connections continues to be more extensive than previously anticipated. In addition, there has been damage to the internet connections available to Floor brokers on the Trading Floor, which has adversely impacted service. In particular, the Exchange notes that the lines that support both the wired and wireless phone connections and internet connections for the Floor brokers are based in an area of lower Manhattan that suffered extensive damage as a result of Hurricane Sandy. The type of damage that was sustained will, in some cases, require the third-party carrier to rebuild the infrastructure that supports these services, rather than engage in repairs of existing lines. While such rebuilding and repairs are in process, the telephone line and internet connections for Floor brokers still are not fully operational and may not be so for at least another month, possibly more given the type of work that needs to be completed to restore the telephone services.

Because of the ongoing intermittent phone and internet service, many Exchange authorized and provided portable phones continue to not be functional and therefore many Floor brokers still cannot consistently use the Exchange authorized and provided portable phones, pursuant to Rules 36.20 and 36.21. In addition, many of the wired telephone lines and internet connections for Floor brokers continue to not be functional. In certain instances, however, the personal cell phones of Floor brokers are operational on the Trading Floor. The Exchange believes that because communications with customers is a vital part of a Floor broker’s role as agent and therefore contributes to maintaining a fair and orderly market, during the period when phone and internet service continues to be intermittent, Floor brokers should be permitted to use personal portable phone devices in lieu of the non-
operational Exchange authorized and provided portable phones, wired phone lines, or internet connections. 

Accordingly, the Exchange proposes to extend the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of when phone service is fully restored or Friday, January 18, 2013. 

The Exchange proposes that the extension of the temporary suspension of those aspects of Rules 36.20 and 36.21 to permit use of the personal portable phones by Floor brokers on the Trading Floor be pursuant to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.

In particular, as set forth in the prior filings, Floor brokers that use a portable personal phone must provide the Exchange with the names of all Floor-based personnel who used personal portable phones during this temporary suspension period, together with the phone number and applicable carrier for each number. Floor broker member organizations must maintain in their books and records all cell phone records that show both incoming and outgoing calls that were made during the period that a personal portable phone was used on the Trading Floor. To the extent the records are unavailable from the third-party carrier, the Floor broker member organizations must maintain contemporaneous records of all calls made or received on a personal portable phone while on the Trading Floor. As with all member organization records, such cell phone records must be provided to Exchange regulatory staff, including without limitation staff of the Financial Industry Regulatory Authority ("FINRA"), on request.

To the extent that Exchange-approved telephone or electronic communications are operational, Floor brokers must use those connections rather than use a personal portable phone. Specifically, the Exchange states that Floor brokers must return to personal portable phone communications at any point when service is restored even if temporary.

Consistent with the existing relief, Exchange is not proposing to provide any relief to DMMs in this proposal. Because phone service to DMMs has been restored, the existing relief does not provide for a temporary suspension of Rule 36.30—Equities, which prohibits DMMs from using personal portable phones on the Trading Floor. Similarly, because the off-Floor locations for DMMs have been restored, the existing relief does not provide for the temporary suspension of Rule 36.20 and 36.21 to permit Floor brokers to use personal portable phones on the Trading Floor. The Exchange is not proposing to provide such relief in this proposal. See supra note 5 and 6 (notices describing the relief previously requested for DMMs).

The Exchange will provide notice of this rule filing to Floor brokers, including the applicable recordkeeping and other requirements. If telephone service is fully restored prior to January 18, 2013, the Exchange will notify Floor brokers that the temporary suspension of those aspects of Rule 36 that do not permit the use of personal portable phones on the Trading Floor has expired as of the time that phone service is fully restored.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, that 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

In particular, in the aftermath of Hurricane Sandy, while the Exchange was able to open for trading, many of the services that the Exchange depends on from third-party carriers, such as wired and wireless telephone connections, are not fully restored. The Exchange believes that the proposed extension of the temporary suspensions from those aspects of Rule 36 that restrict Floor broker’s use of personal portable phones on the Trading Floor removes impediments to and perfects the mechanism of a free and open market and national market system because the proposed relief will enable Floor brokers to conduct their regular business, notwithstanding the ongoing issues with telephone service. The Exchange further believes that without the requested relief, Floor brokers would be compromised in their ability to conduct their regular course of business on the Trading Floor, which could adversely impact the market generally and investor confidence during this time of unprecedented weather disruptions. In particular, for Floor brokers, because they operate as agents for customers, their inability to communicate with customers could compromise their ability to represent public orders on the Trading Floor.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public...
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-NYSE–2012–73 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–NYSE–2012–73. 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–NYSE–2012–73 and should be submitted on or before January 11, 2013.

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

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

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

December 17, 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 December 6, 2012, BATS Y-Exchange, Inc. (the “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 Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act and Rule 19b–4(f)(2) thereunder,3 which renders the proposed rule change 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 proposes to amend the fee schedule applicable to Members5 and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

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

5 A Member is any registered broker or dealer that has been admitted to membership in the Exchange.