H. Assess whether the Trading Pauses are too long or short and whether the reopening procedures should be adjusted.

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, March 29, 2013

February 20, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)2 and Rule 19b–4 thereunder,3 notice is hereby given that February 15, 2013, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with 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, March 29, 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.7 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 16, 2012, again subject to the same terms and conditions of the original temporary suspension that was filed.8 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 when phone service is fully restored or Friday, December 14, 2012, again subject to the same terms and conditions of the original temporary suspension that was filed.9 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 continued to not be functional, many Exchange authorized and provided portable phones continued 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.

On December 13, 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 when phone service is fully restored or Friday, January 18, 2013, again subject to the same terms and conditions of the original temporary suspension that was filed.10 On January 18, 2013, 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 when phone service is fully restored or Friday, February 15, 2013, again subject to the

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4 Pursuant to Rule 6A, the Trading Floor is defined as the restricted-access physical areas designated by the Exchange for the trading of securities, but does not include the physical locations where NYSE Amex Options are traded.
7 See supra note 5 (notice that describes the terms and conditions of the temporary suspension).
same terms and conditions of the original temporary suspension that was filed. 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. The process of rebuilding the infrastructure has been incrementally slow without significant improvement since the last extension request. 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 for another month, 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, March 29, 2013. As noted above, the process of rebuilding the infrastructure has been incrementally slow without significant improvement since the last extension request. However, the Exchange believes that the temporary suspension will be significant improvement in the near future. The third-party carrier recently advised the Exchange that during the next month both the telephone and the internet connections will be restored to Floor brokers on the Trading floor. 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 organizations must maintain 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 phone connections and internet connections will be restored to Floor brokers next month both the telephone and the internet connections in the near future, the third-party carrier recently advised the Exchange that during the next month both the telephone and the internet connections will be restored to Floor brokers on the Trading floor.

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 pre-Hurricane Sandy communications at any point when service is restored even if temporary.

Consistent with the existing relief, the Exchange is not providing 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 36.20—Equities [sic], 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 for DMMs to be permitted to communicate with off-Floor personnel who may not be located at their regular physical location. The Exchange is not proposing to provide such relief in this proposal. See supra notes 5 and 6 (notices describing the relief previously requested for DMMs).

See supra note 5 (notice that describes the terms and conditions of the temporary suspension).
2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,16 in general, and
further the objectives of Section 6(b)(5) of the Act,17 in particular, in 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 phone devices 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. The proposed extension of the temporary suspensions of those aspects of Rules
36.20—Equities and 36.21—Equities
that would not permit Floor brokers to use personal portable phone devices on the Trading Floor is in direct response
to damages in the aftermath of
Hurricane Sandy. The proposed relief will enable Floor brokers to conduct
their regular business, notwithstanding the ongoing issues with telephone
service, and thus should not have any burden on competition.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act 18 and Rule
19b–4(f)(6) thereunder.19 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 on which it was filed, 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) of the Act and Rule 19b–4(f)(6)(iii)
thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) 20 normally does not become operative prior to 30 days after
the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), 21 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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of
investors and the public interest. The Commission notes that doing so will allow the Exchange to continue
uninterrupted, for Floor brokers, the emergency temporary relief necessitated by Hurricane Sandy’s disruption of
telephone service, as described herein and in the Exchange’s prior filings
seeking such relief, and to help maintain the status quo, until the earlier of
when phone service for Floor brokers is fully restored or March 29, 2013.

Therefore, the Commission hereby
waives the 30-day operative delay and designates the proposal operative upon filing. 22

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. If the
Commission takes such action, the
Commission shall institute proceedings under Section 19(b)(2)(B) 23 of the Act
to determine whether the proposed rule change should be approved or
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 email to rule- comments@sec.gov Please include File

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–2013–14. 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

22 For purposes only of waiving the 30-day operative delay, the Commission has considered the
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–2013–14 and should be submitted on or before March 19, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. 24

Kevin M. O’Neill,
Deputy Secretary.

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations: ICE Clear Europe Limited: Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Enhanced Margin Methodology

February 20, 2013.

I. Introduction

On December 28, 2012, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR–ICEEU–2012–11 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) 1 and Rule 19b–4 thereunder. 2 The proposed rule change was published for comment in the Federal Register on January 8, 2013. 3 On February 14, 2013, ICE Clear Europe filed Amendment No. 1 to the proposed rule change. 4 The Commission received one comment regarding this proposal. 5 For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICE Clear Europe proposes to implement an enhanced margin methodology (“Decomp Model”) that addresses the risk of both index and single-name credit default swaps (“CDS”) cleared by ICE Clear Europe and permits appropriate portfolio margining between related index and single-name CDS positions. ICE Clear Europe believes that the Decomp Model will enhance its own risk management, as discussed below, and thereby facilitate the prompt and accurate settlement and risk management of swaps and contribute to the safeguarding of securities and funds associated with CDS transactions.

A fundamental aspect of the Decomp Model is the recognition that index CDS instruments cleared by ICE Clear Europe are essentially a composition of specific single-name CDS. The Decomp Model includes the following enhancements to the ICE Clear Europe margin methodology (“Margin Methodology Enhancements”) for index CDS instruments (which are already in place for single-name CDS): Replacing standard deviation with mean absolute deviation (MAD) as a measure of credit spread variability, use of an auto regressive process to obtain multi-horizon risk measures, an increased number of spread response scenarios, and introduction of liquidity requirements. These enhancements and the enhancements referenced below have been reviewed and/or recommended by the ICE Clear Europe risk management personnel, risk and model review working groups and committees, the ICE Clear Europe Risk Committee and an independent third-party risk expert (Finance Concepts). Implementation of these enhancements to the ICE Clear Europe risk methodology will result specifically in a better measurement of the risk associated with clearing index CDS.

As a result of the decomposition of the index CDS, ICE Clear Europe also will be able to (1) incorporate jump-to-default risk as a component of the risk margin associated with index CDS (which is already in place for single-name CDS) and (2) provide appropriate portfolio margin treatment between index CDS and offsetting single-name CDS positions. Incorporating jump-to-default risk as a component of the Decomp Model will result in a better measurement of the risk associated with clearing index CDS (as is already the case for single-name CDS). Recognizing the highly correlated relationship between long-short positions in index CDS and the underlying single-name CDS constituents of an index CDS will provide for fundamental and appropriate portfolio margin treatment.

Upon approval of the Decomp Model, ICE Clear Europe would initially make appropriate portfolio margining available with respect to its Clearing Members’ proprietary positions. ICE Clear Europe does not currently clear CDS positions of customers of its Clearing Members, but it plans to introduce customer clearing for CDS upon receipt of applicable regulatory approvals. 6 The Commission has granted an exemptive order permitting ICE Clear Europe to commingle customer positions in index CDS and single-name CDS carried through FCM/BD Clearing Members in a single account; 7 in addition, ICE Clear Europe has petitioned the Commodity Futures Trading Commission (“CFTC”) to permit such commingling. 8 Following the commencement of customer clearing for CDS, and upon receipt of all necessary regulatory approvals, ICE Clear Europe would make appropriate portfolio margining available to commingled customer positions in index and single-name CDS using the Decomp Model. Accordingly, the Decomp Model is an important component of ICE Clear Europe’s planned customer clearing offering.

ICE Clear Europe has stated that it does not believe that the expected phased implementation of the portfolio margining element of the proposed Decomp Model (commencing with proprietary positions) raises an issue of unfair discrimination. ICE Clear Europe believes the portfolio margining aspect of the Decomp Model does not unfairly discriminate with respect to similarly situated participants because it is available to any participant for whom ICE Clear Europe is currently able to provide portfolio margin treatment. Once ICE Clear Europe makes customer clearing available and obtains all necessary regulatory approvals, ICE Clear Europe will offer portfolio margining with respect to its Clearing Members’ customer positions. ICE Clear Europe

4 In Amendment No. 1, ICE Clear Europe clarified the description of the current and proposed approaches to its concentration charge calculations.