

Required fields are shown with yellow backgrounds and asterisks.

Proposed Rule Change by NYSE MKT LLC.  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>			
			Rule					
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	19b-4(f)(1) <input type="checkbox"/>	19b-4(f)(2) <input type="checkbox"/>	19b-4(f)(3) <input type="checkbox"/>	19b-4(f)(4) <input type="checkbox"/>	19b-4(f)(5) <input type="checkbox"/>	19b-4(f)(6) <input checked="" type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked \*).

Proposal to extend the temporary suspension 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 following Hurricane Sandy until phone service is fully restored or Friday November 16 2012

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name \*  Last Name \*   
 Title \*   
 E-mail \*   
 Telephone \*  Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date   
 By  Vice President  
 (Name \*)   
 (Title \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

**Sudhir Bhattacharyya,**

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information (required)**

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) NYSE MKT LLC (“NYSE MKT” or the “Exchange”) proposes to extend the temporary suspension 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 following the aftermath of Hurricane Sandy until the earlier of when phone service is fully restored or Friday, November 16, 2012. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the Exchange’s principal office, and in the Public Reference Room of the Securities and Exchange Commission (the “Commission”).
- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action by the Board of Directors or the membership of the Exchange is required. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Clare F. Saperstein  
Vice President  
NYSE Regulation Inc.  
(212) 656-2355

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

(a) Purpose

On Thursday, November 1, 2012, the Exchange filed a rule proposal to temporarily suspend those aspects of Rules 36.20 - Equities, 36.21 - Equities, and 36.30 – Equities that would not permit Floor brokers and Designated Market Makers (“DMMs”) to use personal portable phone devices on the Trading Floor<sup>1</sup>

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<sup>1</sup> 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

following the aftermath of Hurricane Sandy and during the period that phone service was not fully functional.<sup>2</sup> Pursuant to that filing, all other aspects of those rules remained applicable and the temporary suspensions of Rule 36 - Equities 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 - Equities. Accordingly, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20 - Equities, 36.21 - Equities, and 36.30 - Equities 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,<sup>3</sup> 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.<sup>4</sup>

Since filing the extension, the Exchange has been advised by its third-party carrier that the damage to the telephone connections is more extensive than previously anticipated. As a result, the telephone line connections for Floor brokers still are not fully operational. The Exchange notes, however, that the telephone lines available for DMMs are now operational, so that the DMMs no longer need relief.

Because of the ongoing intermittent phone service, many Exchange authorized and provided portable phones continue to not be functional and therefore Floor brokers still cannot use the Exchange authorized and provided portable phones, pursuant to Rules 36.20 - Equities and 36.21 - Equities. In addition, the land lines 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 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 or

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include the physical locations where NYSE Amex Options are traded.

<sup>2</sup> See Securities Exchange Act Release No. 68138 (Nov. 1, 2012) (SR-NYSEMKT-2012-59).

<sup>3</sup> See Securities Exchange Act Release No. 68162 (Nov. 5, 2012) (SR-NYSEMKT-2012-62).

<sup>4</sup> See supra note 2 (notice that describes the terms and conditions of the temporary suspension).

wired phone lines.

Accordingly, the Exchange proposes to extend the temporary suspension 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 to the earlier of when phone service is fully restored or Friday, November 16, 2012. Because phone service to DMMs has been restored, the Exchange is not proposing to extend further the temporary suspension of Rule 36.30 - Equities, which prohibits DMMs from using personal portable phones on the Trading Floor.<sup>5</sup> The Exchange proposes that the extension of the temporary suspension of those aspects of Rules 36.20 - Equities and 36.21 - Equities 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.<sup>6</sup>

In particular, as set forth in the prior filing, 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.

As noted above, because the Exchange is dependent on third-party carriers for both wired and wireless phone service on the Trading Floor, the Exchange does not know how long the proposed temporary suspension of Rules 36.20 - Equities and 36.21 - Equities will be required. However, based on current estimates, the Exchange understands that phone service may not be fully restored until late in the week of November 12, 2012, and because of the extensive damage, may be later than that date. Accordingly, the Exchange proposes that the extension of the temporary suspensions of those aspects of Rule 36 - Equities that do not permit

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<sup>5</sup> Similarly, because the off-Floor locations for DMMs have been restored, the Exchange does not need to extend further the temporary suspension for DMMs to be permitted to communicate with off-Floor personnel who may not be located at their regular physical location. See supra notes 2 and 3 (notices describing the relief requested for DMMs).

<sup>6</sup> See supra note 2 (notice that describes the terms and conditions of the temporary suspension).

Floor brokers to use personal portable phones on the Trading Floor continue until the earlier of when phone service is fully restored or Friday, November 16, 2012.<sup>7</sup>

b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> 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 - Equities 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.

4. 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.

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<sup>7</sup> 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 November 16, 2012, the Exchange will notify Floor brokers that the temporary suspension of those aspects of Rule 36 - Equities 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.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its 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 the filing, or such shorter time as designated by the Commission.

The Exchange believes that its proposal to extend the temporary suspension of those aspects of Rules 36.20 - Equities and 36.21 - Equities that restrict the use of personal portable phones by Floor brokers on the Trading Floor during the period that the Exchange has opened for trading in the aftermath of Hurricane Sandy, but does not have fully operational wired or wireless phone service, will not significantly affect the protection of investors because it will assure that Floor brokers can be fully operational, notwithstanding the limitations of phone service. In particular, the Exchange believes that Floor broker use of personal cell phones during this period will not significantly affect the protection of investors or the public interest because the proposed temporary suspension will enable Floor brokers, as agents, to continue to represent customer orders on the Trading Floor. To the contrary, the Exchange believes that not providing the proposed relief could significantly affect the protection of investors and the public interest by not adequately enabling all relevant trading interest to be represented in the market.

The Exchange respectfully requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> thereunder. Waiver of the operative delay will allow the Exchange to invoke the relief immediately upon filing, which is necessary so that the terms of the relief that was the subject of the previous filing to temporarily suspend those aspects of Rule 36 - Equities that do not permit Floor brokers to use personal portable phones on the Trading Floor<sup>14</sup> may continue uninterrupted until the earlier of when phone service is fully restored or Friday, November 16, 2012.

The Exchange further respectfully requests that the Commission waive the five-day prefiling requirement so that the Exchange may implement the proposed rule change immediately. The Exchange's proposal is an emergency temporary measure that could not have been anticipated before Hurricane Sandy arrived and the Exchange could assess the full impact of the storm on the services available on the Exchange Trading Floor. In particular, although power has been restored to the downtown Manhattan vicinity, the Exchange could not have anticipated that it would continue to experience ongoing issues with telephone service to the Trading Floor.

For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4.<sup>15</sup> 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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4.

<sup>14</sup> See supra fn. 2

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NYSEMKT-2012-66)

[Date]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Temporary Suspension 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 following the Aftermath of Hurricane Sandy Until the Earlier of When Phone Service is Fully Restored or Friday, November 16, 2012

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on November 9, 2012, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) 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 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 - Equities and 36.21 - Equities 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, November 16, 2012. The proposed rule change is available on the Exchange’s website at

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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.

[www.nyse.com](http://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 the 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 - Equities, 36.21 - Equities, and 36.30 – Equities that would not permit Floor brokers and Designated Market Makers (“DMMs”) to use personal portable phone devices on the Trading Floor<sup>4</sup> following the aftermath of Hurricane Sandy and during the period that phone service was not fully functional.<sup>5</sup> Pursuant to that filing, all other aspects of those rules remained applicable and the temporary suspensions of Rule 36 - Equities requirements were in effect beginning the first day trading resumed following Hurricane Sandy until Friday, November 2, 2012.

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<sup>4</sup> 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.

<sup>5</sup> See Securities Exchange Act Release No. 68138 (Nov. 1, 2012) (SR-NYSEMKT-2012-59).

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 - Equities. Accordingly, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20 - Equities, 36.21 - Equities, and 36.30 - Equities 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,<sup>6</sup> 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.<sup>7</sup>

Since filing the extension, the Exchange has been advised by its third-party carrier that the damage to the telephone connections is more extensive than previously anticipated. As a result, the telephone line connections for Floor brokers still are not fully operational. The Exchange notes, however, that the telephone lines available for DMMs are now operational, so that the DMMs no longer need relief.

Because of the ongoing intermittent phone service, many Exchange authorized and provided portable phones continue to not be functional and therefore Floor brokers still cannot use the Exchange authorized and provided portable phones, pursuant to Rules 36.20 - Equities and 36.21 - Equities. In addition, the land lines for Floor brokers

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<sup>6</sup> See Securities Exchange Act Release No. 68162 (Nov. 5, 2012) (SR-NYSEMKT-2012-62).

<sup>7</sup> See supra note 5 (notice that describes the terms and conditions of the temporary suspension).

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 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 or wired phone lines.

Accordingly, the Exchange proposes to extend the temporary suspension 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 to the earlier of when phone service is fully restored or Friday, November 16, 2012. Because phone service to DMMs has been restored, the Exchange is not proposing to extend further the temporary suspension of Rule 36.30 - Equities, which prohibits DMMs from using personal portable phones on the Trading Floor.<sup>8</sup> The Exchange proposes that the extension of the temporary suspension of those aspects of Rules 36.20 - Equities and 36.21 - Equities 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.<sup>9</sup>

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<sup>8</sup> Similarly, because the off-Floor locations for DMMs have been restored, the Exchange does not need to extend further the temporary suspension for DMMs to be permitted to communicate with off-Floor personnel who may not be located at their regular physical location. See supra notes 5 and 6 (notices describing the relief requested for DMMs).

<sup>9</sup> See supra note 5 (notice that describes the terms and conditions of the temporary suspension).

In particular, as set forth in the prior filing, 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.

As noted above, because the Exchange is dependent on third-party carriers for both wired and wireless phone service on the Trading Floor, the Exchange does not know how long the proposed temporary suspension of Rules 36.20 - Equities and 36.21 - Equities will be required. However, based on current estimates, the Exchange understands that phone service may not be fully restored until late in the week of November 12, 2012, and because of the extensive damage, may be later than that date. Accordingly, the Exchange proposes that the extension of the temporary suspensions of those aspects of Rule 36 - Equities that do not permit Floor brokers to use personal portable phones on the Trading Floor continue until the earlier of when phone service is fully restored or Friday, November 16, 2012.<sup>10</sup>

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<sup>10</sup> The Exchange will provide notice of this rule filing to Floor brokers, including the

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> 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 - Equities 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

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applicable recordkeeping and other requirements. If telephone service is fully restored prior to November 16, 2012, the Exchange will notify Floor brokers that the temporary suspension of those aspects of Rule 36 - Equities 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.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> 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.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),<sup>16</sup> 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.

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.

#### 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-NYSEMKT-2012-66 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities

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<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2012-66. 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 Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website at [www.nyse.com](http://www.nyse.com). 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-2012-66 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>17</sup>

Kevin M. O'Neill  
Deputy Secretary

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