



June 18, 2020

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS
FROM: NYSE
SUBJECT: COMPENSATION FOR NYSE SYSTEM FAILURES UNDER NYSE RULE 18

Please Show a Copy of this Memo to Your Trading and Compliance Staff

Purpose

NYSE Rule 18 (“Rule 18”) establishes a process for member organizations to seek reimbursement for losses resulting from NYSE system failures (a “Compensation Claim”). This memo describes (1) the elements of a Compensation Claim; (2) the process for submitting a Compensation Claim; and (3) review of claims by the Compensation Review Panel.

As discussed below, as part of the process for submitting a Compensation Claim, the Exchange is introducing two new forms to help the Exchange collect and process claims.

Overview

Elements of a Compensation Claim under Rule 18

Under Rule 18, if the Exchange’s Division of Floor Operations determines that:

- a valid order was accepted by the Exchange’s systems;
- an Exchange “system failure” occurred during the execution of the order;
- a member organization sustained a loss related to an Exchange system failure; and
- the Exchange’s Division of Floor Operations received from the member organization that sustained such loss

- oral notice, by the market opening on the next business day following the system failure, and
- written notice by the end of the third business day following the system failure (T+3) of a claim,

the Exchange will make a payment to the claiming member organization for the claimed losses incurred by the member organization, as adjusted by the Compensation Review Panel as appropriate.

Claims that do not meet the above criteria are not eligible for reimbursement under Rule 18.

Definition of “System Failure” and “Net Loss”

As defined in Rule 18(b), the term “system failure” means a malfunction of the NYSE’s physical equipment, devices and/or programming that results in an incorrect execution of an order or no execution of an order that was received in NYSE systems or any malfunction of any third-party electronic system, service, or facility (“third-party vendor”) provided by the Exchange that results in an incorrect execution of an order or no execution of a marketable order that was received in Exchange systems.

Malfunctions in a member organization’s own connectivity to the Exchange, or in a member organization’s physical equipment, devices or programming, that proximately cause the member organization’s losses (either by failing to properly enter and process orders or by entering erroneous orders) are not system malfunctions within the meaning of NYSE Rule 18. Misuse of Exchange systems or third-party vendor systems is also not considered a “system malfunction.”

As defined in Rule 18(b), the term “net loss” means the total loss off-set by any gains retained by the member organization as a result of the Exchange system malfunction. A “net loss” is thus calculated by subtracting any profits received in relation to the same system failure incident that is the subject of the Compensation Claim.

Compensation Claims must be submitted on a per-incident basis, meaning that member organizations may not aggregate losses relating to multiple incidents into a single claim, and may not net profits and losses incurred as a result of separate incidents.

Submitting a Compensation Claim

Member organizations wishing to submit a Compensation Claim should follow the following procedures:

- Verify internally that the Compensation Claim meets the criteria described above, including offsetting profits.
- Orally notify the NYSE Floor Operations of the claimed system failure as soon as possible, but in all cases prior to the opening of trading on the trading day following the incident giving rise to the claim as required by Rule 18(a).

- The Exchange requests that member organizations also take the following steps:
 - notify the Exchange in writing on the day of the incident by sending an email to NYSE-Rule18claims@theice.com; and
 - submit a “NYSE Rule 18 Claim - Pending Claim Notification Form” (attached as Exhibit A), prior to 9:30 a.m. on the following business day by email to NYSE-Rule18claims@theice.com.
- Submit written notification of the suspected system failure within three (3) business days of the incident. The written notification should detail the nature of the loss resulting from the system malfunction, the amount of such loss and any steps taken by the member organization to mitigate or offset the loss incurred. Member organizations should use the attached “NYSE Rule 18 Claim - Official Claim Form” (attached as Exhibit B) to document their claim.

Review by the Compensation Review Panel

Compensation Claims that have been validated by the Exchange as properly submitted pursuant to Rule 18(a) will be reviewed by a Compensation Review Panel consisting of three NYSE Floor Governors and three NYSE employees. Claims will be reviewed and processed at the end of each calendar month.

The panel will determine whether the Compensation Claim satisfies all of the criteria for reimbursement, and the amount to be paid on each claim. In making its decision, the panel will also review the actions taken by the member organization and its employees before, during and after the system malfunction to determine if any of such actions contributed to the loss incurred, and whether the member organization took appropriate steps to mitigate its loss. The panel may increase or reduce the amount the claim as a result of this review. **It is therefore imperative that member organizations take immediate and appropriate steps to mitigate its loss.**

All decisions of the Compensation Review Panel will be made by a majority vote, with ties decided by the Exchange’s Chief Executive Officer (or his or her designee) after a review of the relevant facts. All decisions of the Compensation Review Panel (including tie-breaking decisions) are final.

Contact Information

Questions regarding Rule 18 or this Information Memo should be directed to:

- David De Gregorio, Senior Counsel, NYSE Legal, David.DeGregorio@theice.com, 212-656-4166.

Questions regarding the Rule 18 process or concerning potential NYSE systems issues should be directed to:

- Charles Caccese, Executive Governor, NYSE Trading Floor Operations, Charles.Caccese@theice.com, 212-656-3230.

Exhibit A

NYSE Rule 18 Claim - Pending Claim Notification Form

Claimant Contact Information	Contact Name: Member Firm: Address: Phone Number: Email:
Member Firm Contact Information (if different from above)	Contact Name: Member Firm: Address: Phone Number: Email:
Floor Broker Information, if applicable:	Badge number: Agency:
Incident Date & Time	Date: Time:
Description of Orders or Executions Impacted:	Count of symbols: Count of orders/executions: Order receipt time/s: Gross notional amount of exposure: Net notional amount of exposure: Complete all columns in Tab 1 of the Excel spreadsheet to be sent via email to the identified contact(s).
Description & Detail of Mitigation Efforts:	Was the net notional exposure hedged? YES/NO If NO, please provide written explanation.
Description of Exchange System Failure:	Include a detailed description of the chronology of the events that transpired, including actions and/or steps taken to resolve system issues.

Exhibit B

NYSE Rule 18 Claim - Official Claim Form

Claimant Contact Information	Contact Name: Member Firm: Address: Phone Number: Email:
Member Firm Contact Information (if different from above)	Contact Name: Member Firm: Address: Phone Number: Email:
Floor Broker Information:	Badge number: Agency:
Incident Date & Time	Date: Time:
Total claim amount:	\$
Cover P&L:	\$
Hedge P&L:	\$
Cover Details:	Complete all columns in Tab 2 of the Excel spreadsheet to be sent via email to the identified contact(s).
Mitigation efforts. Specify:	Complete all columns in Tab 3 of the Excel spreadsheet to be sent via email to the identified contact(s).
Description of Exchange System Failure:	Include a detailed description of the chronology of the events that transpired, including actions and/or steps taken to resolve system issues.