

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88413; File No. SR-NYSE-2020-19)

March 18, 2020

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.35C to Provide Temporarily, until May 15, 2020, the Exchange with Discretion to Facilitate a Trading Halt Auction following a Market-Wide Circuit Breaker Halt if a Security has not Reopened by 3:30 p.m. Eastern Time

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on March 17, 2020, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 amend Rule 7.35C to provide the Exchange with discretion to facilitate a Trading Halt Auction following a market-wide circuit breaker halt if a security has not reopened by 3:30 p.m. Eastern Time. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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

The Exchange proposes to amend Rule 7.35C to provide the Exchange with discretion to facilitate a Trading Halt Auction following a Level 1 or Level 2 trading halt due to extraordinary market volatility under Rule 7.12 (“MWCB Halt”) if a security has not reopened by 3:30 p.m. Eastern Time.⁴

Under Rule 7.12, if there is a Level 1 or Level 2 Market Decline, the Exchange halts trading in all stocks for 15 minutes. At the end of that 15-minute MWCB Halt, the reopening of trading follows the procedures set forth in the Rule 7.35 Series, which provide for Designated Market Makers (“DMMs”) to facilitate such Trading Halt Auctions pursuant to Rule 7.35A. Under Rule 7.35A, a DMM can facilitate a Trading Halt Auction following a MWCB Halt either electronically or manually. Trading Halt Auctions facilitated manually by the DMM may not be completed until some period after the end of the 15-minute MWCB Halt. If a security has not

⁴ Under Rule 7.12, a “Level 1 Market Decline” means a decline in the price of the S&P 500 Index of 7% from the closing price of that index, and a “Level 2 Market Decline” means a decline in the price of the S&P 500 Index of 13% from the closing price of that index.

been reopened for trading by 3:50 p.m., that security will remain halted and will be eligible for a Closing Auction, as provided for in the Rule 7.35 Series, instead of a Trading Halt Auction.⁵

Rule 7.35C sets forth the procedures for Exchange-facilitated auctions. Currently, the Exchange will facilitate an Auction only if a DMM cannot facilitate an Auction for one or more securities.

To facilitate the fair and orderly reopening of securities following a MWCB Halt, the Exchange proposes that it have discretion to facilitate a Trading Halt Auction in one or more securities under the procedures described in Rule 7.35C if a security is not reopened by 3:30 p.m. The Exchange continues to believe that DMM-facilitated Trading Halt Auctions following a MWCB Halt provide the greatest opportunity for fair and orderly reopenings of securities, and would therefore continue to provide DMMs an opportunity to reopen securities before effectuating an Exchange-facilitated Trading Halt Auction. The proposal would provide the Exchange with another tool during volatile markets to reopen securities before 3:50 p.m., for continuous trading to resume leading into the close. This proposed rule change would therefore provide the CEO of the Exchange or his or her designee the authority to determine that the Exchange would facilitate a Trading Halt Auction so that a security in one or more securities [sic] under the procedures set forth in Rule 7.35C if a security has not reopened by 3:30 p.m., and therefore have continuous trading resume before leading into the close.

The Exchange believes that specifying a time in the Rule at which the Exchange could exercise such discretion would put DMMs on notice of the time that the Exchange could begin facilitating such auctions. The Exchange further believes that it is not appropriate to provide that

⁵ In such case, MOO Orders, LOO Orders, Opening D Orders, and Primary Pegged Orders will be cancelled (Rule 7.35(d)(2)) and the Exchange will begin disseminating Closing Auction Imbalance Information (Rule 7.35(d)(3)).

the Exchange would automatically facilitate reopening auctions at 3:30 p.m. There may be facts and circumstances where DMMs would be able to reopen all securities before 3:50 p.m., but that the DMM-facilitated process may not have completed by 3:30 p.m. The Exchange would take those facts and circumstances into account before invoking the proposed relief. Exchange staff would communicate with the impacted DMMs verbally on the Floor during such times, and therefore the DMMs would be on notice of whether the Exchange would invoke this relief, and for which securities.

For any Exchange-facilitated Trading Halt Auction, the Exchange proposes to widen the Auction Collars. Currently, the Auction Collar for an Exchange-facilitated Trading Halt Auction would be based on a price that is greater than \$0.15 or 5% away from the Auction Reference Price for the Trading Halt Auction.⁶ The Exchange proposes that, if it facilitates a Trading Halt Auction following a MWCB Halt pursuant to proposed Commentary .01, the Auction Collars would be the greater of \$0.15 or 10% away from the Auction Reference Price.

The proposed rule change is designed to provide the Exchange with more flexibility to respond to the unprecedented market-wide declines that have resulted from both the ongoing spread of the novel COVID-19 virus and an over 30% decline in oil prices before the beginning of trading on March 9, 2020. On Monday, March 9, 2020, the U.S. equities markets triggered the first-ever Level 1 MWCB Halt under the current rules, and only the second MWCB Halt

⁶ The Auction Reference Price for an Exchange-facilitated Trading Halt Auction is the Imbalance Reference Price as determined under Rule 7.35A(e)(3), and is therefore the Consolidated Last Sale Price. As defined in Rule 7.35(a)(11)(A), the Consolidated Last Sale Price means the most recent consolidated last-sale eligible trade in a security on any market during Core Trading Hours on that trading day, and if none, the Official Closing Price from the prior trading day for that security.

since market-wide circuit breaker rules were adopted after the October 29, 1987 crash.⁷ In advance of the opening on March 9, 2020, the E-mini S&P Futures had triggered a limit down state on the futures market and SPDR S&P 500 ETF (SPY) was trading down over 7% from the prior day's close. Shortly after the opening of trading at 9:30 a.m., the market continued its steep decline and a Level 1 MWCB Halt was triggered at 9:34:13 a.m., with the reopening of trading to begin at 9:49:13 a.m.

Following continued market declines on March 10 and 11, 2020, on Thursday, March 12, 2020, as a result of continued uncertainty about COVID-19, in advance of the opening, the E-mini S&P 500 Futures reached a limit down state on the futures market and SPY was trading down nearly 7% from the prior day's close. With continued declines after the open of trading, a Level 1 MWCB Halt was triggered at 9:35:44 a.m., with the reopening of trading to begin at 9:50:44. All NYSE-listed securities were reopened by 10:23 a.m.⁸ And on Monday, March 16, 2020, following several announcements over the preceding weekend of school closures nationwide, additional guidance on social distancing, including limitations on social gatherings of 50 people or more, and a Federal Reserve announcement that interest rates were being reduced to zero percent, at 9:30:01, a Level 1 MWCB Halt was triggered after the S&P 500 Index declined over 9% in that one second of trading.

⁷ The prior MWCB Halt was triggered under former Rule 80B on Monday, October 27, 1997. The trigger for the MWCB Halts on that day were based on point declines in the Dow Jones Industrial Average (200 point decline to halt trading for 30 minutes and a 400 point decline to halt trading for one hour).

⁸ Because of the extension logic applicable to Trading Halt Auctions following MWCB Halt for securities listed on NYSE Arca, Inc. ("NYSE Arca") (see NYSE Arca Rule 7.35-E(e)), NYSE Arca-listed securities did not all resume trading at 9:50:44. Similar to NYSE, all NYSE Arca-listed securities were also reopened by 10:23 a.m.

Because the reasons for these market declines and related triggers of MWCB Halts are related to the extraordinary ongoing uncertainty regarding how COVID-19 will impact the global economy and daily life, the Exchange proposes to adopt these proposed rule changes on a temporary basis, until May 15, 2020. If uncertainty continues and the Exchange believes that the period for this proposed rule change should be extended, it will file a separate proposed rule change.

The proposed Commentary .01 to Rule 7.35C would provide as follows:

.01 Until May 15, 2020, to facilitate the fair and orderly reopening of securities following either a Level 1 or Level 2 trading halt due to extraordinary market volatility under Rule 7.12 (“MWCB Halt”), the CEO of the Exchange or his or her designee may determine that the Exchange will facilitate a Trading Halt Auction in one or more securities under this Rule if a security has not reopened by 3:30 p.m. If the Exchange facilitates a Trading Halt Auction following a MWCB Halt pursuant to this Commentary, the Auction Collars will be the greater of \$0.15 or 10% away from the Auction Reference Price.

The Exchange would be able to implement the proposed rule change immediately upon effectiveness of this proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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.

As a result of uncertainty related to the ongoing spread of the COVID-19 virus and declines in the oil market, the U.S. equities markets are experiencing unprecedented market declines. Level 1 MWCBS Halts were triggered on March 9, March 12, and March 16, 2020, and these were the first-ever MWCBS Halts under the current rules. The last time there was a MWCBS Halt was in 1997. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide discretion for the Exchange to reopen securities if a security has not reopened following a MWCBS Halt by 3:30 p.m., which would allow continuous trading to resume leading into the close. As noted, the first-ever MWCBS Halts occurred during the week of March 9, 2020, and there have now been three. Based on our experience in the reopening process for these MWCBS Halts, the Exchange believes that this proposed rule change would provide the Exchange with the flexibility to use the Rule 7.35C Exchange-facilitated auction procedures to reopen securities more quickly, if needed, near the close of trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to ensure a fair and orderly reopening of securities following a MWCBS Halt by provided for a temporary period during which the Exchange would have the flexibility to facilitate a Trading Halt Auction following a MWCBS Halt if a security has not reopened by 3:30 p.m. so that the

security can resume continuous trading leading into the close.

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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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 for 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 Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

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

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived that requirement for this proposed rule change.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

operative delay so that the proposed rule change may become operative immediately. The Exchange states that the proposed rule change is designed to respond to the unprecedented uncertainty and market declines resulting from the ongoing spread of the COVID-19 virus and the over 30% decline in oil prices before the beginning of trading on March 9, 2020. The Exchange notes that these market declines have already triggered an unprecedented three Level 1 MWCB Halts in one week. The proposal would provide the Exchange on a temporary basis, until May 15, 2020, with discretion to facilitate a Trading Halt Auction following a MWCB Halt, if a security has not reopened by 3:30 p.m. Eastern Time. The proposal would not provide that the Exchange would automatically facilitate reopening auctions at 3:30 p.m. The Exchange notes that there may be facts and circumstances where DMMs would be able to reopen all securities before 3:30 p.m., but that the DMM-facilitated process may not be completed by 3:30 p.m. The Exchange represents that it would take those facts and circumstances into account before invoking the proposed relief, and that Exchange staff would communicate with the impacted DMMs verbally on the Floor during such times, and that therefore the DMMs would be on notice of whether the Exchange would invoke this relief and for which securities. The Exchange asserts that the proposal would provide the Exchange with another tool during volatile markets to reopen securities before 3:50 p.m., for continuous trading to resume leading into the close. According to the Exchange, this measure is designed to ensure a fair and orderly reopening of securities following a MWCB Halt. The Exchange represents that it is able to implement these proposed rule changes immediately, and that waiver of the 30-day operative delay would provide the Exchange with additional means by which to ensure the resumption of continuous trading on its market leading into the close in the event that a security is not reopened by 3:30 p.m. Eastern Time following a MWCB Halt. For these reasons, the Commission

believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹⁷

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. If the Commission takes such action, the Commission shall institute proceedings 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2020-19 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

¹⁷ 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).

All submissions should refer to File Number SR-NYSE-2020-19. 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that

you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2020-19, 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.¹⁸

J. Matthew DeLesDernier
Assistant Secretary

¹⁸ 17 CFR 200.30-3(a)(12), (59).