

# FINANCIAL INFORMATION FORUM

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August 29, 2013

Elizabeth M. Murphy, Secretary

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

Re: SR-NYSE-2013-54 - Notice of Filing of Proposed Rule Change to Amend NYSE Rule 49, which Addresses the Exchange's Emergency Powers; SR-NYSEArca-2013-77 - NYSE Arca Equities Rule 2.100, which Provides for Certain Emergency Powers; SR-NYSEMKT-2013-66 - NYSE Rule 49 - Equities in Order to Authorize Exchange Officials to Exercise the Same Emergency Powers As NYSE Officials may Exercise

Dear Ms. Murphy,

The Financial Information Forum (FIF)<sup>1</sup> would like to take this opportunity to comment on the proposed rule change to amend NYSE Rule 49 and conforming proposals by NYSE MKT and NYSE Arca (“the Proposals”). The FIF Market Stability Working Group (“the Working Group”) has reviewed the Proposals and believes they are a step forward to addressing industry concerns with the current NYSE Rule 49. In particular, we believe the following elements of the proposal are critical to establishing an orderly cutover to emergency powers:

- Next day resumption of trading in NYSE and NYSE MKT securities on NYSE Arca: A same-day shift to establishing emergency powers will pose a number of operational concerns for firms. Specifically, an intra-day change does not allow sufficient time to make necessary changes to systems and conduct adequate testing of those changes.
- Orders routed to NYSE Arca will print as P: As discussed in the Proposals, front, middle and back office systems expect that orders routed to an exchange will result in executions and clearing activity associated with that same exchange.
- Opening and Closing Prints in both P and N or A: This approach accommodates the reliance of some firms and processes on the primary market print but firms will need to test this process to ensure they can properly handle both prints.
- NYSE Arca Membership: For the Proposals to succeed, firms must already be NYSE Arca members. While we do not believe this is an issue for most FIF members, it may be necessary

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<sup>1</sup> FIF ([www.fif.com](http://www.fif.com)) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the financial technology industry across the order lifecycle. Our participants include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

to review current NYSE, NYSE MKT and NYSE Arca membership to ensure that those firms that are not NYSE Arca members are aware of the impact to their trading activities in the event of an emergency. Given that the NYSE Arca fee structure will apply, it is also necessary to consider the cost impact.

In order to fully assess the policies and procedures outlined in the Proposals, FIF recommends the following:

1. Creation of a robust test plan for the industry test to evaluate readiness. It is our understanding that NYSE plans a test of the Proposals in September 2013. FIF recommends incorporating the considerations outlined below as part of the test plans.
2. Establishment of an Emergency Powers Playbook designed for operations and technology staff that includes timelines and activities for entering, operating under, and exiting the emergency powers state.
3. Development and deployment of a communications plan designed to familiarize the industry with the Proposals once approved.

Each of these recommendations is discussed in more detail below:

#### **Robust Test Plan for Industry Test to Evaluate Proposals**

The Working Group believes that it is important for firms to participate in industry testing with NYSE to evaluate the Proposals. The following considerations will be important for the industry and individual firm test plans.

- Calculations for pricing and valuations given both P and N or A opening and closing prints
  - Index calculations
  - Mutual fund NAV
  - Derivative products
  - High, Low
  - Open, Close: It is our understanding that if NYSE closes intra-day, closing prints will be disseminated manually via a file of the consolidated last sale
  - Volumes: It is our understanding that Opening and Closing volume will be attributed to NYSE only
- Market Data
  - SIP Feeds: Firms need to assess the impact of receiving two opening prints, closing prints, as well as other primary market notifications on their SIP feed processing
  - Proprietary exchange feeds: It is our understanding that NYSE and NYSE MKT proprietary feeds will be suspended during an emergency but NYSE Arca proprietary feeds will be available.
- Open Orders
  - GTC Order Management: It is our understanding that firms will have the ability to cancel GTC orders on NYSE but will also have the option to leave them on NYSE. Firms should

assess the timing and scope of their GTC order cancellations given where the market is and the impact on priority that cancellation will have.

- Day Order Management: It is our understanding that NYSE will purge any unexecuted day orders.
- Equity Trading: It is our understanding that NYSE Arca rules will govern equity trading in NYSE securities.
  - Opening auction
  - Intra-day trading: It is our understanding that NYSE would reject new day orders or new GTC orders if sent. The NYSE Common Customer Gateway (CCG) will only be open for cancellations.
  - Trading Halts
  - IPOs: It is our understanding that NYSE would postpone IPOs when exercising emergency powers
  - Closing auction: It is our understanding that NYSE Arca Market on Close (MOC) rules are different from NYSE and NYSE MKT rules.
  - Dividend and Corporate Actions Processing
  - Fees
- Trading in options or other asset classes
- Other Primary Listing Market Notifications sent both as P and N or A
  - Reg SHO
  - Regulatory Halts
- Impact on other regulations – LULD, Account Type Indicators, OATS. It is our understanding that NYSE Arca rules would apply with respect to all of these regulations.
- Clearance & Settlement. It is our understanding that all trading activity during an emergency would be considered NYSE Arca trading from a clearance and settlement perspective.
- Other communications, e.g., availability of NYSE/NYSE MKT Trader Updates versus reliance on NYSE Arca Trader Updates
- Resumption to normal trading operations (e.g., updating routing tables, etc.)

FIF recommends a robust test plan as part of the industry testing process so that firms evaluate the implications of the emergency powers procedures. Any issues uncovered by testing should be addressed before approval of the Proposals.

#### **Establishment of an Emergency Powers Playbook**

The Working Group believes that the establishment of an Emergency Powers playbook designed for operations and technology staff is essential in order to ensure a smooth transition to emergency powers in the event that such a measure is required. A comprehensive playbook that covers all of the considerations outlined above would ensure that market participants are operating under the same set of assumptions and performing all required activities. Such a playbook should cover timelines, activities, technical details, operating procedures, contact information and all other relevant information required to make the transition, operate under emergency powers and resume normal operating procedures. The

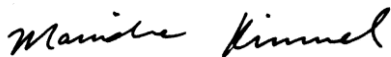
Working Group would welcome the opportunity to participate in the review process of the Emergency Powers Playbook.

**Development & Deployment of Communications Plan**

Awareness of the Proposals, once approved, is critical for successful adoption and integration into the business continuity and disaster recovery plans of market participants. The Working Group recommends a communications plan designed both for senior level executives and practitioners in order to make sure there is a common understanding of how NYSE will operate under emergency powers. FIF would welcome the opportunity to act as a distribution channel for any communications on this topic.

Upon resolution of any issues uncovered during industry testing, the Working Group looks forward to working with NYSE to ensure that its emergency powers policies and procedures are well understood within the industry. We understand that the Proposals outlined will be replaced in 2014 with emergency powers based on remote DMM capabilities. We look forward to evaluating that proposal as well.

Regards,



Manisha Kimmel  
Executive Director  
Financial Information Forum

cc: The Honorable Mary Jo White, Chairman  
The Honorable Luis A. Aguilar, Commissioner  
The Honorable Daniel J. Gallagher, Commissioner  
The Honorable Kara M. Stein, Commissioner  
The Honorable Michael S. Piwowar, Commissioner

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