

**MEMO# 31550**

January 9, 2019

## **SEC Requests Comment on Limit Up-Limit Down Plan Amendment: Draft ICI Letter Attached, Member Feedback Requested by Jan. 14**

[31550]

January 9, 2019 TO: Equity Markets Advisory Committee  
ETF (Exchange-Traded Funds) Committee  
ETF Advisory Committee RE: SEC Requests Comment on Limit Up-Limit Down Plan  
Amendment: Draft ICI Letter Attached, Member Feedback Requested by Jan. 14

The Securities and Exchange Commission recently requested comment on a proposal to amend the National Market System (NMS) Plan to Address Extraordinary Market Volatility (the “Limit Up-Limit Down Plan”) in three ways.<sup>[1]</sup> The amendment would: (1) transition the Limit Up-Limit Down Plan from operating on a pilot to a permanent basis; (2) adopt a mechanism for periodic review and assessment of the plan; and (3) recalibrate the formula used to determine the thresholds for trading pauses around the market open and, for some NMS stocks, the close.

**Comments on the proposal are due to the SEC by January 16, 2019.** ICI has prepared a draft comment letter urging the SEC to improve the governance of the Limit Up-Limit Down Plan and other NMS plans by adding representatives of market participants other than self-regulatory organizations to the plans’ operating committees. The letter builds on arguments that we have made in other contexts, including prior letters on the Limit Up-Limit Down Plan. If you have comments on the draft letter, please send them to George Gilbert ([george.gilbert@ici.org](mailto:george.gilbert@ici.org)) **by 5:00 pm (eastern) on Monday, January 14.**

### **Background on the Limit Up-Limit Down Plan**

The Limit Up-Limit Down Plan, which went into effect in April 2013, created a market-wide mechanism to address significant fluctuations in the price of individual securities over a short period of time, such as those experienced during the “Flash Crash” on the afternoon of May 6, 2010. The plan seeks to prevent trades from occurring outside of specified price bands and employs trading pauses to accommodate more fundamental price moves.

The plan requires the calculation and dissemination of a lower and upper price band for each NMS stock. All trading centers for NMS stocks must establish, maintain, and enforce

written policies and procedures designed to prevent trades at prices that are below the lower price band or above the upper price band. The price bands for an NMS stock are calculated by applying a specified “Percentage Parameter” to the stock’s reference price.<sup>[2]</sup> Between 9:30 am and 9:45 am, and 3:35 pm and 4:00 pm (or, in the case of an early scheduled close, the last 25 minutes of trading), the Percentage Parameters for each NMS stock are doubled.

Under the Limit Up-Limit Down Plan, an NMS stock enters a limit state when the national best offer for the stock equals the lower price band and does not cross the national best bid, or the national best bid equals the upper price band and does not cross the national best offer. If the stock remains in a limit state for 15 seconds, the primary listing exchange must declare a trading pause, which lasts for at least five minutes. The plan also provides procedures for reopening a stock following a trading pause.

## **Summary of the Proposed Amendment**

The Limit Up-Limit Down Plan has operated on a pilot basis since its inception in 2013. The proposed amendment calls for the plan to operate on a permanent basis because it “has proved to be a valuable tool in dampening and preventing extreme price volatility” and operating the plan on a permanent basis “would provide market participants with greater assurance regarding the ongoing operation of the [plan] and the application of controls reasonably designed to stifle extraordinary price volatility.”<sup>[3]</sup>

The proposed amendment also proposes a mechanism for the periodic review and assessment of the plan’s performance that would allow for the continued evaluation of the plan and account for an evolving market structure. The proposed review mechanism aims to ensure that the Limit Up-Limit Down Plan would be monitored in a data-driven manner. Under the proposal, the plan’s operating committee, in consultation with the advisory committee, would provide to the Commission and make publicly available an annual report, certain quarterly data, and reports on market events. The proposed amendment also would empower the Commission to request additional, nonpublic information from primary listing exchanges.

The proposed amendment also would recalibrate the formula used to determine the thresholds for trading pauses around the market open and close. As described above, the price bands for an NMS stock are calculated by applying a Percentage Parameter to the stock’s reference price, and this Percentage Parameter is doubled between 9:30 am and 9:45 am and the last 25 minutes of scheduled trading. The proposed amendment would eliminate the requirement to double the applicable Percentage Parameters between 9:30 a.m. and 9:45 a.m. for all stocks. It also would cease the doubling of Percentage Parameters of certain NMS stocks with a reference price above \$3.00 during the last 25 minutes of scheduled trading.<sup>[4]</sup> The proposed amendment states that narrowing the price bands could result in fewer stocks entering limit states, fewer trading pauses and, in the case of trading near the close, could reduce the potential for flash crashes in individual securities.

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[Attachment](#)

## endnotes

[1] See Joint Industry Plan, Notice of Filing of the Eighteenth Amendment to the National Market System Plan to Address Extraordinary Market Volatility, 83 Fed. Reg. 66464 (December 26, 2018), *available at* <https://www.govinfo.gov/content/pkg/FR-2018-12-26/pdf/2018-27819.pdf> (Amendment).

[2] A reference price is the mean price of transactions completed over the immediately preceding five-minute period that are eligible to update the last sale price of an NMS stock.

[3] See Amendment at 66470.

[4] The Limit Up-Limit Down Plan divides NMS stocks into two tiers. Tier 1 stocks include those in the S&P 500 and Russell 1000 indexes as well as the exchange-traded products specified in Schedule 1 to Appendix A of the plan. All other NMS stocks are in Tier 2, except for rights and warrants, which are excluded from the plan. The proposed change would apply to Tier 2 stocks with reference prices above \$3.00.

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