



Financial Industry Regulatory Authority

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March 20, 2019

Eduardo A. Aleman

Deputy Secretary

U.S. Securities and Exchange Commission

100 F Street, N.E.

Washington, D.C. 20549-1090

**Re: Exemptive Application Pursuant to Rule 608 of Regulation NMS –
NMS Plan to Implement a Tick Size Pilot Program**

Dear Mr. Aleman:

Pursuant to Rule 608(e) of Regulation NMS under the Securities Exchange Act of 1934 (“Exchange Act”), Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of itself and Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., NYSE Chicago, Inc., Investors Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, and NYSE Arca, Inc. (collectively, “Participants”), requests that the Securities and Exchange Commission (“Commission” or “SEC”) grant an exemption from the data collection and publication requirements contained in the National Market System Plan to Implement a Tick Size Pilot Program (“Plan” or “Pilot”),¹ such that the post-Pilot Period data collection and publication requirements would effectively end on Friday, March 29, 2019, rather than on Tuesday, April 2, 2019.²

¹ See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (“Approval Order”).

² Capitalized terms used herein, but not otherwise defined, shall have the meanings ascribed to them in the Plan.

Background

On August 25, 2014, the Participants filed the Plan³ with the Commission, pursuant to Section 11A of the Act⁴ and Rule 608 of Regulation NMS thereunder.⁵ The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014.⁶ The Plan was published for comment in the Federal Register on November 7, 2014, and approved by the Commission, as modified, on May 6, 2015.⁷ The Commission approved the Pilot on a two-year basis, with implementation to begin no later than May 6, 2016.⁸ On November 6, 2015, the SEC provided an exemption to the Participants from implementing the Pilot until October 3, 2016.⁹ Under the Plan, the Pilot Period expired at the end of trading on Tuesday, October 2, 2018.¹⁰ The Plan also provides that the data requirements would continue for six months after the end of the Pilot Period –*i.e.*, until April 2, 2019.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. Each Participant is required to comply, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan, including the Plan's data collection and publication requirements.¹¹

³ See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

⁴ 15 U.S.C. 78k-1.

⁵ 17 CFR 242.608.

⁶ See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

⁷ See Approval Order.

⁸ Id.

⁹ See Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (November 13, 2015).

¹⁰ On September 10, 2018, the Commission issued an exemption to the exchanges and FINRA to allow the quoting and trading requirements to terminate at the end of trading on Friday, Sept. 28, 2018. <https://www.sec.gov/divisions/marketreg/mr-noaction/2018/tick-size-pilot-exemption-091018-608e.pdf>.

¹¹ See Section VII of the Plan. See also Appendices B and C to the Plan.

Rule 608 and the Proposed Exemption

Rule 608(c) of Regulation NMS provides that “[e]ach self-regulatory organization shall comply with the terms of any effective national market system plan of which it is a sponsor or a participant. Each self-regulatory organization also shall, absent reasonable justification or excuse, enforce compliance with any such plan by its members and persons associated with its members.”¹² Rule 608(e) allows the Commission to “exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.”¹³ The Participants are seeking exemptive relief from the Plan’s post-Pilot Period data collection and publication requirements such that the post-Pilot Period data collection obligations end at the end of trading on Friday, March 29, 2019, as described below.

Section VII of the Plan (Collection of Pilot Data) generally provides that the Participants must comply, and enforce compliance by its member organizations, as applicable, with the data collection and publication requirements set forth in Appendix B (Data Collected by Participants and Trading Centers) and Appendix C (Data Collected by Market Makers) of the Plan for dates starting six months prior to the Pilot Period through six months after the end of the Pilot Period.¹⁴ Among other things, the Plan provides for the collection of specified data, the transmission of data to the SEC, and the publication of data on Participant websites.¹⁵ The post-Pilot data collection and publication requirements currently are set to expire at the end of trading on Tuesday, April 2, 2019.

The Participants currently are preparing to transition away from the requirements of the Tick Size Pilot, including the data provisions of Section VII and Appendices B and C to the Plan, and believe that the process would be less burdensome if the post-Pilot Period data obligations ended on March 29, 2019, rather than April 2, 2019. In particular, the Participants note that the systems currently in place to meet the Plan’s monthly requirements are programmed to run the required data and statistics in relation to a month’s volume of data and the related timelines. Absent relief, the Participants would be required to make systems updates. For example, the Participants would be required to make programming changes and update existing parameters to enable the Participants to generate a monthly file for the month of April

¹² 17 CFR 242.608(c).

¹³ 17 CFR 242.608(e).

¹⁴ See Section VII(A) of the Plan.

¹⁵ See Section VII of the Plan. See also Appendices B and C to the Plan.

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2019 that would include statistics for only two trading days (Monday, April 1st and Tuesday, April 2nd), which would add costs and complexity to the end of the Pilot. Therefore, the Participants are seeking an exemption from compliance and enforcing compliance with the Plan's post-Pilot Period data collection and publication requirements, effective as of the end of trading on Friday, March 29, 2019, to minimize the complexity and costs associated with concluding the Pilot.

The Participants do not believe that the benefits of retaining the current end-date outweigh the overall costs of complying and enforcing compliance with the Plan's post-Pilot Period data collection and publication requirements for two trading days in April. Thus, the Participants request that the Commission grant to Participants an exemption from the data collection and publication requirements of the Plan, effective as of the end of trading on Friday, March 29, 2019.

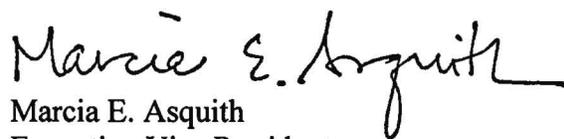
The Participants believe that the requested exemption will not affect the goal of the Pilot to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. For example, if the Commission grants the exemption, all but two trading days of post-Pilot Period data will be available to the Commission and market participants for assessment.

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For the reasons set forth above, the Participants respectfully request that, pursuant to Rule 608(e), the Commission grant exemptive relief to the provisions in the Plan as set forth above. The Participants therefore believe that this exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

Thank you in advance for your consideration of this request.

Very truly yours,



Marcia E. Asquith
Executive Vice President,
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