SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69287; File No. 4-631)

April 3, 2013

Joint Industry Plan; Order Approving the Third Amendment to the National Market System Plan to Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

I. Introduction

On February 21, 2013, NYSE Euronext, on behalf of New York Stock Exchange LLC ("NYSE"), NYSE MKT LLC ("NYSE MKT"), and NYSE Arca, Inc. ("NYSE Arca"), and the following parties to the National Market System Plan: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, and National Stock Exchange, Inc. (collectively with NYSE, NYSE MKT, and NYSE Arca, the "Participants"), filed with the Securities and Exchange Commission ("Commission") pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")[1] and Rule 608 thereunder,[2] a proposal to amend the Plan to Address Extraordinary Market Volatility ("Plan").[3] The proposal represents the third amendment to the Plan ("Third Amendment"), and reflects changes unanimously approved by the Participants. The Third Amendment proposes to amend the Plan to provide that odd-lot sized transactions will not be exempt from the limitation on trades

1 15 U.S.C. 78k-1.

2 17 CFR 242.608.

3 See Letter from Janet M. McGinness, Executive Vice President & Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated February 19, 2013 ("Transmittal Letter").

provision of Section VI.A.1 of the Plan and proposes to make a clarifying technical change to Section VIII.A.3 of the Plan. The Third Amendment was published for comment in the Federal Register on March 12, 2013.[4] The Commission received one comment letter in response to the Notice.[5] This order approves the Third Amendment to the Plan.

II. Description of the Proposal

A. Purpose of the Plan

The Participants filed the Plan in order to create a market-wide limit up-limit down mechanism that is intended to address extraordinary market volatility in "NMS Stocks," as defined in Rule 600(b)(47) of Regulation NMS under the Act.[6] The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that would be designed to prevent trades in individual NMS Stocks from occurring outside of the specified price bands.[7] These limit up-limit down requirements would be coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

As set forth in Section V of the Plan, the price bands would consist of a Lower Price Band and an Upper Price Band for each NMS Stock.[8] The price bands would be calculated by the Securities Information Processors ("SIPs" or "Processors") responsible for consolidation of

---

4 See Securities Exchange Act Release No. 69062 (March 7, 2013), 78 FR 15757 ("Notice").

5 See Letter from Manisha Kimmel, Executive Director, Financial Information Forum, to Elizabeth M. Murphy, Secretary, Commission, dated March 22, 2013 ("FIF Letter").

6 17 CFR 242.600(b)(47). See also Section I(H) of the Plan.

7 See Section V of the Plan.

8 Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Plan.

information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Act.[9] Those price bands would be based on a Reference Price[10] for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period. The price bands for an NMS Stock would be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter[11] below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. Between 9:30 a.m. and 9:45 a.m. ET and 3:35 p.m. and 4:00 p.m. ET, the price bands would be calculated by applying double the Percentage Parameters as set forth in Appendix A of the Plan.

The Processors would also calculate a Pro-Forma Reference Price for each NMS Stock on a continuous basis during Regular Trading Hours. If a Pro-Forma Reference Price did not move by one percent or more from the Reference Price in effect, no new price bands would be disseminated, and the current Reference Price would remain the effective Reference Price. If the Pro-Forma Reference Price moved by one percent or more from the Reference Price in effect, the

---

9 17 CFR 242.603(b). The Plan refers to this entity as the Processor.

10 See Section I(T) of the Plan.

11 As initially proposed by the Participants, the Percentage Parameters for Tier 1 NMS Stocks (i.e., stocks in the S&P 500 Index or Russell 1000 Index and certain ETPs) with a Reference Price of $1.00 or more would be five percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for Tier 2 NMS Stocks (i.e., all NMS Stocks other than those in Tier 1) with a Reference Price of $1.00 or more would be 10 percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP would be the applicable Percentage Parameter set forth above multiplied by the leverage ratio of such product. On May 24, 2012, the Participants amended the Plan to create a 20% price band for Tier 1 and Tier 2 stocks with a Reference Price of $0.75 or more and up to and including $3.00. The Percentage Parameter for stocks with a Reference Price below $0.75 would be the lesser of (a) $0.15 or (b) 75 percent. See Letter from Janet M. McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated May 24, 2012.

Pro-Forma Reference Price would become the Reference Price, and the Processors would disseminate new price bands based on the new Reference Price. Each new Reference Price would remain in effect for at least 30 seconds.

When one side of the market for an individual security is outside the applicable price band, the Processors would be required to disseminate such National Best Bid[12] or National Best Offer[13] with an appropriate flag identifying it as non-executable. When the other side of the market reaches the applicable price band, the market for an individual security would enter a Limit State,[14] and the Processors would be required to disseminate such National Best Offer or National Best Bid with an appropriate flag identifying it as a Limit State Quotation.[15] All trading would immediately enter a Limit State if the National Best Offer equals the Lower Limit Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Limit Band and does not cross the National Best Offer. Trading for an NMS Stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market did not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause, which would be applicable to all markets trading the security.

These limit up-limit down requirements would be coupled with trading pauses[16] to accommodate more fundamental price moves (as opposed to erroneous trades or momentary

---

12 17 CFR 242.600(b)(42). See also Section I(G) of the Plan.

13 Id.

14 A stock enters the Limit State if the National Best Offer 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. See Section VI(B) of the Plan.

15 See Section I(D) of the Plan.

16 The primary listing market would declare a trading pause in an NMS Stock; upon notification by the primary listing market, the Processor would disseminate this

gaps in liquidity). As set forth in more detail in the Plan, all trading centers[17] in NMS Stocks, including both those operated by Participants and those operated by members of Participants, would be required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

Under the Plan, all trading centers would be required to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processors would disseminate an offer below the Lower Price Band or bid above the Upper Price Band that nevertheless inadvertently may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; such bid or offer would not be included in National Best Bid or National Best Offer calculations. In addition, all trading centers would be required to develop, maintain, and enforce policies and procedures reasonably designed to prevent trades at prices outside the price bands, with the exception of single-priced opening, reopening, and closing transactions on the Primary Listing Exchange.

As stated by the Participants in the Plan, the limit up-limit down mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks,[18] thereby protecting investors and promoting a fair and orderly market.[19] In particular, the Plan is

---

information to the public. No trades in that NMS Stock could occur during the trading pause, but all bids and offers may be displayed. See Section VII(A) of the Plan.

17 As defined in Section I(X) of the Plan, a trading center shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Act.

18 17 CFR 242.600(b)(47).

19 See Transmittal Letter, supra note 3.

designed to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.[20] The initial date of Plan operations is April 8, 2013.[21]

B. Third Amendment to the Plan

The Third Amendment proposed two changes to the Plan. First, the Participants propose to amend Section VI.A.1 of the Plan to clarify that odd-lot sized transactions are not exempt from the limitation on trades provision of Section VI.A.1.[22] This provision requires trading centers in NMS stocks to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS stock. The Participants stated that they believe that odd-lot sized transactions should benefit from the protections of the Plan. Second, the Participants propose to amend Section VIII.A.3 of the Plan to clarify that during Phase I of implementation no price bands shall be calculated and disseminated and therefore trading shall not enter a Limit State less than 30 minutes before the end of Regular Trading Hours. The Participants stated that the proposed change is designed to reduce confusion by correcting language in the Plan.

III. Comment Letter

The Commission received one comment letter in favor of the Third Amendment to the Plan.[23] The commenter stated that the proposed changes were raised since September 2012 in discussions that the commenter had with the Participants and that it had the understanding that

---

20 The limit up-limit down mechanism set forth in the Plan would replace the existing single-stock circuit breaker pilot. See e.g., Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR-FINRA-2010-025); 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR-FINRA-2010-033).

21 See Securities Exchange Act Release No. 68953 (February 20, 2013), 78 FR 13113 (February 26, 2013).

22 The Commission notes that the Plan provisions regarding Trading Pauses apply to all trading in NMS Stocks, including odd-lot transactions.

23 See FIF Letter, supra note 5.

amendments would be filed with the Commission to address these concerns. As such, market participants have programed their systems accordingly well in advance of the April 8, 2013 implantation date of the Plan.

The commenter further stated that one of the key drivers of the Plan is the protection of retail investors.[24] Thus, having odd-lots incorporated at the commencement of the rule is critical. Moreover, the commenter stated that the implementation of the Plan has evolved into a very complex process and it would prefer that odd-lots not be implemented on a different schedule possibly causing investor confusion.

IV. Discussion and Commission Findings

After careful review, the Commission finds that Third Amendment is consistent with the requirements of the Act and the rules and regulations thereunder.[25] Specifically, the Commission finds that the Third Amendment is consistent with Section 11A of the Act[26] and Rule 608 thereunder[27] in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanism of, a national market system.

The Third Amendment would make two changes to the Plan. The first change amends the Plan to specify that odd-lot transactions will be subject to the limitation on trades provision of Section VI.A.1. As such, the requirement that trading centers in NMS stocks establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS

---

24 Id.

25 In approving the Third Amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

26 15 U.S.C. 78k-1.

27 17 CFR 242.608.

stock will apply to odd-lot transactions. The Commission notes that this change could reduce the ability of market participants to engage in odd-lot transactions to circumvent the requirements of the Plan, thereby further protecting investors. The Commission also notes that the change is widely anticipated and supported in the industry, as it would reduce compliance burdens because firms would not need to code specially for odd lots.[28]

The second change would reconcile an inconsistency in the current rule text of the Plan. The current language states that the price bands shall not be calculated and disseminated less than 30 minutes before the end of the trading day, and that trading shall not enter a Limit State less than 25 minutes before the end of the trading day. Under this formulation, there would be no price bands after 3:30 p.m. ET, although a stock could still enter a Limit State until 3:35 p.m. ET. This is internally inconsistent, since the price bands must be calculated and disseminated in order for the Limit State to be triggered. The Participants proposed to amend the Plan to state that no price bands shall be calculated and disseminated and, therefore, trading shall not enter a Limit State, less than 30 minutes before the end of the trading day. The Commission believes that this change provides further clarity on the operation of the limit up-limit down mechanism during Phase I of the Plan.

Therefore, the Commission believes that the Third Amendment to the Plan is consistent with Section 11A of the Act[29] and Rule 608 thereunder.[30]

---

28 See FIF Letter.

29 15 U.S.C. 78k-1.

30 17 CFR 242.608.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act[31] and Rule 608 thereunder,[32] that the Third Amendment to the Plan (File No. 4-631) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill
Deputy Secretary

---

31 15 U.S.C. 78k-1.

32 17 CFR 242.608.

33 17 CFR 200.30-3(a)(29).