

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76244; File No. 4-631)

October 22, 2015

Joint Industry Plan; Order Approving the Ninth 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 July 31, 2015, New York Stock Exchange LLC (“NYSE”), on behalf of the following parties to the National Market System Plan to Address Extraordinary Market Volatility (“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, National Stock Exchange, Inc., NYSE MKT LLC, and NYSE Arca, Inc. (collectively with NYSE, 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.³ The proposal represents the ninth amendment to the Plan, and reflects proposed changes unanimously approved by the Participants. The amendment was published for comment in the Federal Register on September 18, 2015.⁴ The Commission received one comment letter regarding the

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ See Letter from Elizabeth King, General Counsel, NYSE, to Brent Fields, Secretary, Commission, dated July 31, 2015 (“Transmittal Letter”).

⁴ See Securities Exchange Act Release No. 75917 (September 14, 2015), 80 FR 56515

amendment.⁵ This order approves the amendment to the Plan.

II. Description of the Proposal

The amendment proposes to extend the pilot period of the Plan from October 23, 2015 to April 22, 2016. In addition, on March 30, 2015, Chicago Board Options Exchange, Incorporated (“CBOE”) provided written notice to the Participants of CBOE’s intent to withdraw from the Plan. Notice of withdrawal was made pursuant to Section IX of the Plan. CBOE became a Participant due to the operation of its facility, the CBOE Stock Exchange, LLC (“CBSX”), which engaged in NMS stock transactions. The last day of trading on CBSX was April 30, 2014. Therefore, because CBOE no longer operates a facility engaged in NMS stock transactions, CBOE would have no additional NMS stock data to provide nor any reason to avail itself of any further right under the Plan. Accordingly, CBOE proposes to be removed from the Plan.

III. Discussion and Commission Findings

The Commission finds that the amendment is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the amendment is consistent with Section 11A of the Act⁶ and Rule 608 thereunder⁷ in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to, and perfects the mechanism of, a national market system.

(“Notice”).

⁵ See Letter from Donald Bollerman, Head of Markets and Sales, IEX, to Brent Fields, Secretary, Commission, dated October 16, 2015 (“IEX Letter”). IEX did not comment on the proposals set forth in the proposed amendment. In its comment letter, IEX suggested that the Commission evaluate the operation of the Plan and the experience of trading on August 24, 2015 prior to making the Plan permanent. In addition, IEX identified other areas for the Commission to consider, such as SRO opening procedures, floor-based rules, and imbalance information, in relation to trading on August 24, 2015.

⁶ 15 U.S.C. 78k-1.

⁷ 17 CFR 242.608.

Pursuant to the Plan, the Participants are required to provide the Commission with certain assessments relating to the impact of the Plan and the calibration of the Percentage Parameters.⁸ On September 29, 2014, the Participants submitted a Participant Impact Assessment,⁹ which provided the Commission with the Participants' initial observations in each area required to be addressed under Appendix B to the Plan. On May 28, 2015, the Participants submitted a Supplemental Joint Assessment, in which the Participants provided additional analysis required under Appendix B and recommended that the Plan be adopted on a permanent basis with certain modifications.¹⁰

The Participants propose to amend Section VIII(C) of the Plan to extend the pilot period through April 22, 2016, to allow the Participants to conduct, and the Commission to consider, further analysis of data in support of the recommendations made in the Supplemental Joint Assessment. The Participants note that an extension of the pilot period would allow the Participants to finalize and file with the Commission any proposed amendments to the Plan resulting from such recommendations and further analysis.¹¹

⁸ See Appendix B.III of the Plan.

⁹ See Joint SROs letter to Brent J. Fields, Secretary, SEC, dated September 29, 2014 ("Participant Impact Assessment").

¹⁰ See Letter from Christopher B. Stone, Vice President, FINRA, to Brent J. Fields, Secretary, SEC, dated May 28, 2015. The Supplemental Joint Assessment is available at <http://www.sec.gov/comments/4-631/4631-39.pdf>.

The areas of analysis in Appendix B are intended to capture the key measures necessary to assess the impact of the Plan and to support recommendations relating to the calibration of the Percentage Parameters to help ensure that the stated objectives of the Plan are achieved – particularly: liquidity when approaching price bands; clearly erroneous trades; the appropriateness of the percentage parameters; the attributes of limit states; the impact of limit states on the options markets; whether process adjustments are needed when entering/exiting a limit state; and the length of trading pauses.

¹¹ See Notice, supra note 4 at 56516.

The Commission believes that it is appropriate in the public interest, for the protection of investors and the maintenance of a fair and orderly market to approve the amendment to extend the pilot period to April 22, 2016 so that the Participants can conduct further analysis to support any recommendations to amend the Plan.¹² In addition, because CBOE no longer operates a facility for NMS Stocks, the Commission believes it is appropriate for CBOE to be removed from the Plan.

For the reasons noted above, the Commission finds that the amendment to the Plan is consistent with Section 11A of the Act¹³ and Rule 608 thereunder.¹⁴ The Commission reiterates its expectation that the Participants will continue to monitor the scope and operation of the Plan and study the data produced, and will propose any modifications to the Plan that may be necessary or appropriate.¹⁵

¹² Extending the pilot period will allow the Participants time to consider various substantive issues regarding the operation of the Plan, such as those raised in the IEX Letter, supra note 5.

¹³ 15 U.S.C. 78k-1.

¹⁴ 17 CFR 242.608.

¹⁵ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act¹⁶ and Rule 608 thereunder,¹⁷ that the Ninth 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.¹⁸

Brent J. Fields
Secretary

¹⁶ 15 U.S.C. 78k-1.

¹⁷ 17 CFR 242.608.

¹⁸ 17 CFR 200.30-3(a)(29).