

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75917; File No. 4-631)

September 14, 2015

Joint Industry Plan; Notice of Filing of 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, Inc., 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, the New York Stock Exchange LLC (“NYSE”), on behalf of the following parties to the National Market System Plan to Address Extraordinary Market Volatility (the “Plan”)¹: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated (“CBOE”), 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., NYSE MKT LLC, and NYSE Arca, Inc. (collectively with the NYSE, the “Participants”),

¹ On May 31, 2012, the Commission approved the Plan, as modified by Amendment No. 1. See Securities Exchange Act Release No. 67091, 77 FR 33498 (Jun. 6, 2012) (File No. 4-631). On February 26, 2013, the Commission published for immediate effectiveness the Second Amendment to the Plan. See Securities Exchange Act Release No. 68953 (Feb. 20, 2013), 78 FR 13113. On April 3, 2013, the Commission approved the Third Amendment to the Plan. See Securities Exchange Act Release No. 69287, 78 FR 21483 (Apr. 10, 2013). On September 3, 2013, the Commission published for immediate effectiveness the Fourth Amendment to the Plan. See Securities Exchange Act Release No. 70273 (Aug. 27, 2013), 78 FR 54321 (Fourth Amendment). On September 26, 2013, the Commission approved the Fifth Amendment to the Plan. See Securities Exchange Act Release No. 70530, 78 FR 60937 (Oct. 2, 2013). On January 13, 2014, the Commission published for immediate effective the Sixth Amendment to the Plan. See Securities Exchange Act Release No. 71247 (Jan. 7, 2014), 79 FR 2204 (Sixth Amendment). On April 3, 2014, the Commission approved the Seventh Amendment to the Plan. See Securities Exchange Act Release No. 71851, 79 FR 19687 (Apr. 9, 2014). On February 19, 2015, the Commission approved the Eight Amendment to the Plan. See Securities Exchange Act Release No. 74323, 80 FR 10169 (Feb. 25, 2015).

filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)² and Rule 608 thereunder,³ a proposal to amend the Plan.⁴ The proposal reflects changes unanimously approved by the Participants. The Amendment to the Plan proposes to extend the pilot period of the Plan from October 23, 2015 to April 22, 2016. A copy of the Plan, as proposed to be amended is attached as Exhibit A hereto. The Commission is publishing this notice to solicit comments from interested persons on the Amendment to the Plan.⁵

II. Description of the Plan

Set forth in this Section II is the statement of the purpose and summary of the Amendment, along with the information required by Rule 608(a)(4) and (5) under the Exchange Act,⁶ prepared and submitted by the Participants to the Commission.⁷

A. Statement of Purpose and Summary of the Plan Amendment

The Participants filed the Plan on April 5, 2011, to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Exchange Act. The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that would prevent trades in individual NMS Stocks from occurring outside of the specified price bands. These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to

² 15 U.S.C. 78k-1.

³ 17 CFR 242.608.

⁴ See Letter from Elizabeth King, General Counsel, NYSE, to Brent Fields, Secretary, Commission, dated July 31, 2015 (“Transmittal Letter”).

⁵ 17 CFR 242.608.

⁶ See 17 CFR 242.608(a)(4) and (a)(5).

⁷ See Transmittal Letter, supra note 3.

accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.

As set forth in more detail in the Plan, all trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down requirements specified in the Plan. More specifically, the single plan processor responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act will be responsible for calculating and disseminating a lower price band and upper price band, as provided for in Section V of the Plan. Section VI of the Plan sets forth the limit up-limit down requirements of the Plan, and in particular, that all trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall 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, consistent with the Plan.

The Plan was initially approved for a one-year pilot period, which began on April 8, 2013.⁸ Accordingly, the pilot period was scheduled to end on April 8, 2014. As initially contemplated, the Plan would have been fully implemented across all NMS Stocks within six months of initial Plan operations, which meant there would have been full implementation of the Plan for six months before the end of the pilot period. However, pursuant to the fourth amendment to the Plan,⁹ the Participants modified the implementation schedule of Phase II of the Plan to extend the time period as to when the Plan would fully apply to all NMS Stocks.

⁸ See Section VIII of the Plan.

⁹ See Fourth Amendment, supra note 1.

Accordingly, the Plan was not implemented across all NMS Stocks until December 8, 2013. Pursuant to the sixth amendment to the Plan,¹⁰ which further modified the implementation schedule of Phase II of the Plan, the date for full implementation of the Plan was moved to February 24, 2014.

In addition, pursuant to the seventh amendment to the Plan,¹¹ the pilot period was extended from April 8, 2014 to February 20, 2015, and submission of the assessment of the Plan operations was accordingly extended to September 30, 2014. Without such extension, the Plan would have been in effect for the full trading day for less than two months before the end of the pilot period. The Participants believed that this short period of full implementation of the Plan would have provided insufficient time for both the Participants and the Commission to assess the impact of the Plan and determine whether the Plan should be modified prior to approval on a permanent basis.

On September 29, 2014, the Participants submitted a Participant Impact Assessment,¹² 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 recommended that the Plan be adopted as permanent with certain modifications, and discussed the areas of analysis set forth in Appendix B to the Plan.¹³ These areas 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

¹⁰ See Sixth Amendment, *supra* note 1.

¹¹ See Securities Exchange Act Release No. 71851 (April 3, 2014), 79 FR 19687 (April 9, 2014).

¹² See Joint SROs letter to Brent J. Fields, Secretary, SEC, dated September 29, 2014 (“Participant Impact Assessment”).

¹³ See Letter from Christopher B. Stone, Vice President, FINRA, to Brent J. Fields, Secretary, SEC, dated May 28, 2015.

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.

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, including around the attributes of limit states; the length of trading pauses; the use of an alternative reference price at the open of trading; and the alignment of the percentage parameters with the Clearly Erroneous Execution (CEE) thresholds (with the goal of largely eliminating the Participants' CEE authority). Thus, 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. The Participants believe that extending the pilot period is appropriate in the public interest, for the protection of investors and the maintenance of a fair and orderly market because it provides Participants with additional time to perform further analysis on the appropriateness of current Plan components and parameters, and to finalize and propose recommended modifications to the Plan.

The Participants believe that the proposed amendment is consistent with Section 11A of the Securities Exchange Act of 1934 and Rule 608, of Regulation NMS thereunder,¹⁴ which authorizes the Participants to act jointly in preparing, filing and implementing national market system plans. The Participants further believe that extending the pilot period will be beneficial

¹⁴ 17 CFR 242.608.

in that it allows “the public, the Participants, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to approval on a permanent basis.”¹⁵

The Participants note that the amended version of the Plan also includes the revised Appendix A – Schedule 1, which was updated for trading beginning July 1, 2015. As set forth in Appendix A – Percentage Parameters, the Primary Listing Exchange updates Schedule 1 to Appendix A semi-annually based on the fiscal year, and such updates do not require a Plan amendment.

1. Chicago Board Options Exchange, Incorporated Withdrawal

On March 30, 2015, CBOE provided written notice to 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 the CBOE Stock Exchange, LLC (“CBSX”), a facility of the CBOE. CBSX engaged in NMS stock transactions. The last day of trading on CBSX was April 30, 2014. 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.

B. Governing or Constituent Documents

The governing documents of the Processor, as defined in Section I(P) of the Plan, will not be affected by the Plan, but once the Plan is implemented, the Processor’s obligations will change, as set forth in detail in the Plan.

C. Implementation of Plan

The initial date of the Plan operations was April 8, 2013.

¹⁵ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498, 33508 (June 6, 2012).

D. Development and Implementation Phases

The Plan was initially implemented as a one-year pilot program in two Phases, consistent with Section VIII of the Plan: Phase I of Plan implementation began on April 8, 2013 and was completed on May 3, 2013. Implementation of Phase II of the Plan began on August 5, 2013 and was completed on February 24, 2014. Pursuant to this proposed amendment, the Participants propose to extend the pilot period so that it is set to end April 22, 2016.

E. Analysis of Impact on Competition

The proposed amendment to the Plan does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements relating to Interpretation of, or Participation in the Plan

The Participants have no written understandings or agreements relating to interpretation of the Plan. Section II(C) of the Plan sets forth how any entity registered as a national securities exchange or national securities association may become a Participant.

G. Approval of Amendment of the Plan

Each of the Plan's Participants has executed a written amended Plan.

H. Terms and Conditions of Access

Section II(C) of the Plan provides that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) becoming a participant in the applicable Market Data Plans, as defined in Section I(F) of the Plan; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current

Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

I. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

J. Method and Frequency of Processor Evaluation

Not applicable.

K. Dispute Resolution

Section III(C) of the Plan provides for each Participant to designate an individual to represent the Participant as a member of an Operating Committee. No later than the initial date of the Plan, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee. Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the Commission as a request for an amendment to the Plan initiated by the Commission under Rule 608.

On July 30, 2015, the Operating Committee, duly constituted and chaired by Ms. Karen Lorentz of the NYSE, on behalf of Committee Chairman Mr. Christopher B. Stone of FINRA, met and voted unanimously to amend the Plan as set forth herein in accordance with Section III(C) of the Plan. The Plan Advisory Committee was notified in connection with the Ninth Amendment and was in favor.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Ninth Amendment is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number 4-631 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number 4-631. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Plan that are filed with the Commission, and all written communications relating to the Plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the Participants' principal offices. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number 4-631 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

By the Commission.

Brent J. Fields
Secretary