

for exchange registration or to its oversight of a registered exchange.

Based on the Applicant's representations, the indirect nature of the relationship between the Applicant and the Foreign Indirect Affiliates, and the information that the Applicant will provide with respect to the Foreign Direct Affiliates and the Foreign Indirect Affiliates, the Commission believes that it will have sufficient information to review the Applicant's Form 1 application and to make the determinations required under Sections 6(b) and 19(a) of the Exchange Act with respect to its application for registration as a national securities exchange.²⁷ The Commission believes, further, that it will have the information necessary to oversee the Applicant's activities as a national securities exchange if the Commission were to approve the Applicant's Form 1 application. In particular, the Commission notes that the Applicant has represented that it would have no direct connection to the Foreign Indirect Affiliates, that the Foreign Indirect Affiliates would have no ability to influence the management or policies of the Applicant, and that the Foreign Indirect Affiliates would have no obligation to fund, or ability to materially affect the funding of, the Applicant. In addition, the Commission notes that the Applicant represented that: (1) The Foreign Indirect Affiliates have no ownership interest in the Applicant or in any of the controlling equity holders of the Applicant; and (2) there are no commercial dealings between the Applicant and the Foreign Indirect Affiliates.²⁸

Given the limited and indirect relationship between the Applicant and the Foreign Indirect Affiliates, as described above, the Commission believes that the detailed corporate and financial information required in Exhibits C and D with respect to the Foreign Indirect Affiliates is unnecessary for the Commission's review of the Applicant's Form 1 application and would be unnecessary for the Commission's oversight of the Applicant as a registered national securities exchange following any Commission approval of its Form 1 application.

²⁷ 15 U.S.C. 78f(b) and 78s(a). Section 6(b) of the Exchange Act enumerates certain determinations that the Commission must make with respect to an exchange before granting the registration of the exchange as a national securities exchange. The Commission will not grant an exchange registration as a national securities exchange unless the Commission determines that the exchange meets these requirements. See Regulation ATS Adopting Release, *supra* note 9, at IV.B.

²⁸ See Exemption Request, *supra* note 4, at 3.

For the reasons discussed above, the Commission finds that the conditional exemptive relief requested by the Applicant is appropriate in the public interest and is consistent with the protection of investors.

It is ordered, pursuant to Section 36 of the Exchange Act,²⁹ that the Applicant is exempt from the requirements to: (1) Include in its Form 1 application the information required in Exhibits C and D to Form 1 with respect to the Foreign Indirect Affiliates; and (2) with respect to the Foreign Indirect Affiliates, update the information in Exhibits C and D to Form 1 as required by Exchange Act Rules 6a-2(a)(2), 6a-2(b)(1), and 6a-2(c) subject to the following conditions:

(i) The Applicant must provide a list of the names of the Foreign Indirect Affiliates;

(ii) The Applicant must provide an organizational chart setting forth the affiliation of the Foreign Indirect Affiliates and the Foreign Direct Affiliates and the Applicant; and

(iii) as part of Exhibit C to the Applicant's Form 1 Application, the Applicant must provide a description of the nature of the affiliation between the Foreign Indirect Affiliates and the Foreign Direct Affiliates and the Applicant.

In addition, the Applicant must provide amendments to the information required under conditions (i) through (iii) above on or before June 30th of each year.

By the Commission.

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2013-05241 Filed 3-6-13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69012; File No. 10-209]

Topaz Exchange, LLC; Notice of Filing of Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

March 1, 2013.

On July 3, 2012, Topaz Exchange, LLC ("Topaz Exchange" or "Applicant") submitted to the Securities and Exchange Commission ("Commission") a Form 1 application under the Securities Exchange Act of 1934 ("Exchange Act"), seeking registration as a national securities exchange under

²⁹ 15 U.S.C. 78mm.

Section 6 of the Exchange Act.¹ On December 19, 2012, Topaz Exchange submitted Amendment No. 1 to its Form 1 application.² On December 31, 2012, Topaz Exchange submitted Amendment No. 2 to its Form 1 application.³

The Commission is publishing this notice to solicit comments on Topaz Exchange's Form 1 application, as amended. The Commission will take any comments it receives into consideration in making its determination about whether to grant Topaz Exchange's request to be registered as a national securities exchange. The Commission will grant the registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to Topaz Exchange are satisfied.⁴

The Applicant's Form 1 application, as amended, provides detailed information on how Topaz Exchange proposes to satisfy the requirements of the Exchange Act. Topaz Exchange would be wholly-owned by its parent company, International Securities Exchange Holdings, Inc. ("ISE Holdings"), which also is the parent company of an existing national securities exchange, ISE. Topaz Exchange would operate a fully automated electronic trading platform for the trading of listed options and would not maintain a physical trading floor. Liquidity would be derived from orders to buy and orders to sell

¹ On March 1, 2013, the Commission issued an order granting Topaz Exchange exemptive relief, subject to certain conditions, in connection with the filing of its Form 1 application. See Securities Exchange Act Release No. 69011. Because the Applicant's Form 1 application was incomplete without the exemptive relief, the date of filing of such application is March 1, 2013.

² Amendment No. 1, among other things, includes changes to the Limited Liability Company Agreement and the Constitution of Topaz Exchange concerning board composition and size, the initial director election process, and the use of regulatory funds. Amendment No. 1 also includes revisions to proposed rules of Topaz Exchange to remove rules relating to complex orders; to respond to comments on the Form 1 application from Commission staff; and to reflect recent changes to comparable rules of International Securities Exchange, LLC ("ISE"). Amendment No. 1 further provides additional descriptions in the Form 1 application regarding proposed allocation procedures, auction mechanisms, execution of qualified contingent crosses, and the initial director election process, and removes references to complex orders.

³ Amendment No. 2, among other things, provides updated information regarding the board of directors of ISE and the Corporate Governance Committee of ISE and includes information regarding Longitude S.A., a newly incorporated affiliate of Topaz Exchange, which information includes the Articles of Incorporation of Longitude S.A. Amendment No. 2 also provides financial information for Longitude S.A. Finally, Amendment No. 2 provides an updated organizational chart that reflects the affiliates of Topaz Exchange.

⁴ 15 U.S.C. 78s(a).

submitted to Topaz Exchange electronically by its registered broker-dealer members, as well as from quotes submitted electronically by market makers.

A more detailed description of the manner of operation of Topaz Exchange's proposed system can be found in Exhibit E to Topaz Exchange's Form 1 application. The proposed rulebook for the proposed exchange can be found in Exhibit B to Topaz Exchange's Form 1 application, and the governing documents for both Topaz Exchange and ISE Holdings can be found in Exhibit A and Exhibit C to Topaz Exchange's Form 1 application, respectively. A listing of the officers and directors of Topaz Exchange can be found in Exhibit J to Topaz Exchange's Form 1 application.

Topaz Exchange's Form 1 application, including all of the Exhibits referenced above, is available online at www.sec.gov/rules/other.shtml as well as in the Commission's Public Reference Room. Interested persons are invited to submit written data, views, and arguments concerning Topaz Exchange's Form 1, including whether the application is consistent with the Exchange 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 email to rule-comments@sec.gov. Please include File Number 10-209 on the subject line.

Paper Comments

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

All submissions should refer to File Number 10-209. This file number should be included on the subject line if email 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 Web site (<http://www.sec.gov/rules/other.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to Topaz Exchange's Form 1 filed with the Commission, and all written communications relating to the application 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 Web

site 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. 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 publicly available. All submissions should refer to File Number 10-209 and should be submitted on or before April 22, 2013.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69013; IA-3558; File No. 4-606]

Duties of Brokers, Dealers, and Investment Advisers

AGENCY: Securities and Exchange Commission.

ACTION: Request for data and other information.

SUMMARY: The Securities and Exchange Commission is requesting data and other information, in particular quantitative data and economic analysis, relating to the benefits and costs that could result from various alternative approaches regarding the standards of conduct and other obligations of broker-dealers and investment advisers. We intend to use the comments and data we receive to inform our consideration of alternative standards of conduct for broker-dealers and investment advisers when providing personalized investment advice about securities to retail customers. We also will use this information to inform our consideration of potential harmonization of certain other aspects of the regulation of broker-dealers and investment advisers.

DATES: Comments should be received on or before July 5, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Submission:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number 4-606 in the subject line.

Paper Submission:

- Send paper submissions in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number 4-606. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all submissions of data on the Commission's Internet Web site (<http://www.sec.gov>). Comments are also available for Web site 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. Please refer to the Appendix at the end of this release for instructions on submitting data and other information.

FOR FURTHER INFORMATION CONTACT:

Jennifer Marietta-Westberg, Assistant Director, Matthew Kozora, Financial Economist, Division of Risk, Strategy and Financial Innovation, at (202) 551-6655; David W. Blass, Chief Counsel, Lourdes Gonzalez, Assistant Chief Counsel—Sales Practices, Emily Westerberg Russell, Senior Special Counsel, Daniel Fisher, Branch Chief, Leila Bham, Special Counsel, Division of Trading and Markets, at (202) 551-5550; Office of Chief Counsel, at (202) 551-6825 and Office of Investment Adviser Regulation, at (202) 551-6787, Division of Investment Management; Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

Discussion

I. Introduction

A. Background

Today, broker-dealers and investment advisers routinely provide to retail customers¹ many of the same services, and engage in many similar activities related to providing personalized investment advice about securities to

¹ For the purposes of this request for comment, and as noted in Part III below, the term "retail customer" has the same meaning as in Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Public Law 111-203, 124 Stat. 1376 (2010). Specifically, it means "a natural person, or the legal representative of such natural person, who (A) receives personalized investment advice about securities from a broker, dealer or investment adviser; and (B) uses such advice primarily for personal, family, or household purposes." 15 U.S.C. 80b-11(g)(2).