(SR–Phlx–2016–104) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30794 Filed 12–21–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79585; File Nos. SR–BatsBZX–2016–68; SR–BatsBYX–2016–29; SR–BatsEDGA–2016–24; SR–BatsEDGX–2016–60]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Bats BYX Exchange, Inc.; Bats EDGA Exchange, Inc.; Bats EDGX Exchange, Inc.; Order Granting Approval of Proposed Rule Change in Connection With the Proposed Corporate Transaction Involving Bats Global Markets, Inc. and CBOE Holdings, Inc.

December 16, 2016.

I. Introduction

On November 2, 2016, Bats BZX Exchange, Inc. (''BZX''), Bats BYX Exchange, Inc. (''BYX'' and, together with BZX, the ''Bats Exchanges''), Bats EDGA Exchange, Inc. (''EDGA'') and Bats EDGX Exchange, Inc. (''EDGX'' and, together with EDGA, the ''Edge Exchanges'') (the Bats Exchanges and the Edge Exchanges are the ''Exchanges'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] proposed rule changes in connection with the proposed corporate transaction (the ''Transaction''), as described in more detail below, involving their ultimate parent company, Bats Global Markets, Inc. (''BGM''), CBOE Holdings, Inc. (''CBOE Holdings''), and two wholly owned subsidiaries of CBOE Holdings, CBOE Corporation and CBOE V, LLC (''CBOE V''). CBOE Holdings is the parent company of Chicago Board Options Exchange, Incorporated (''CBOE'') and C2 Options Exchange, Incorporated (''C2''), each a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act,[4] and CBOE Futures Exchange, LLC (''CBOE Futures,'' and together with CBOE and C2, the ''CBOE Exchanges''), a national securities exchange that lists or trades security-futures products notice-registered with the Commission pursuant to Section 6(g) of the Act.[5] The proposed rule changes were published for comment in the **Federal Register** on November 15, 2016.[6] The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule changes are consistent with Sections 6(b)(1) and (3) of the Act,[8] which, among other things, require a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act, and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange, and assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission also finds that the proposal is consistent with Section 6(b)(5) of the Act,[9] which requires that the rules of the exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

II. Discussion

A. Corporate Structure

1. Current Structure

The Exchanges are each Delaware corporations that are national securities exchanges registered with the Commission pursuant to Section 6(a) of the Act.[10]

BZX and BYX are each direct, wholly owned subsidiaries of Bats Global Market Holdings, Inc. (''BGM Holdings''), a Delaware corporation that is a direct, wholly owned subsidiary of BGM. BGM Holdings also owns 100 percent of the equity interest in Bats Trading, Inc. (''Bats Trading''), a Delaware corporation that is a broker-dealer registered with the Commission that provides routing services outbound from, and in certain instances inbound to, each Exchange. EDGX and EDGA are direct, wholly owned subsidiaries of Direct Edge LLC (''Direct Edge''), a Delaware limited liability company that is a direct, wholly owned subsidiary of BGM. BGM, a Delaware corporation, is a publicly traded company listed on BZX.

CBOE Holdings, a Delaware corporation, is a publicly traded company listed on The NASDAQ Stock Market. CBOE Holdings owns 100 percent of the equity interest in the CBOE Exchanges.

2. The Transaction

In contemplation of the Transaction, CBOE Holdings formed two additional entities, CBOE Corporation, a Delaware corporation, and CBOE V, a Delaware limited liability company, each of which are direct, wholly owned subsidiaries of CBOE Holdings. Neither CBOE Corporation nor CBOE V currently have material assets or conduct any operations.

On September 25, 2016, BGM, CBOE Holdings, CBOE Corporation and CBOE V entered into an Agreement and Plan of Merger (the ''Merger Agreement''). Pursuant to and subject to the terms of the Merger Agreement, upon completion of the mergers described below that effectuate the Transaction (the ''Closing''), among other things:

(i) CBOE Corporation will be merged with and into BGM, whereupon the separate existence of CBOE Corporation will cease and BGM will be the surviving company (the ''Merger'');

(ii) by virtue of the Merger and without any action required on the part of BGM, CBOE Corporation or any holder of BGM or CBOE Corporation stock, each share of BGM common stock (whether voting or non-voting) issued and outstanding (with the exception of shares owned by CBOE Holdings, BGM or any of their respective subsidiaries and certain shares held by persons that are entitled to and properly demand appraisal rights) will be converted into

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(a).

[5] 15 U.S.C. 78f(g).

[6] *See* Securities Exchange Act Release Nos. 79266 (November 8, 2016), 81 FR 80101 (November 15, 2016) (SR–BatsBZX–2016–68); 79269 (November 8, 2016), 81 FR 80093 (November 15, 2016) (SR–BatsBYX–2016–29); 79265 (November 8, 2016), 81 FR 80146 (November 15, 2016) (SR–BatsEDGA–2016–24) and 79264 (November 8, 2016), 81 FR 80114 (November 15, 2016) (SR–BatsEDGX–2016–60) (''Notices'').

[7] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(1) and (b)(3).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(a).

the right to receive a particular number of shares of CBOE Holdings and/or cash, at the election of the holder of such share of BGM common stock (the ''Merger Consideration''), and each share of CBOE Corporation issued and outstanding will be converted into one share of BGM, such that BGM will become a wholly owned subsidiary of CBOE Holdings; and

(iii) immediately following the Merger, BGM will be merged with and into CBOE V, whereupon the separate existence of BGM will cease and CBOE V will be the surviving company (the ''Subsequent Merger'').

As a result of the Transaction, BGM will cease to exist and the business of BGM will be carried on by CBOE V, which is a wholly owned subsidiary of CBOE Holdings.[11] CBOE V will own 100 percent of the equity interest in BGM Holdings and Direct Edge. BGM Holdings will continue to own 100 percent of the equity interest in the Bats Exchanges and Bats Trading. Direct Edge will continue to own 100 percent of the equity interest in the Edge Exchanges.

B. Proposed Rule Changes

Section 19(b) of the Act and Rule 19b–4 thereunder require a self-regulatory organization (''SRO'') to file proposed rule changes with the Commission. Although BGM, BGM Holdings, Direct Edge, CBOE Holdings, and CBOE V are not SROs, certain provisions of their proposed certificates of incorporation and bylaws, along with other corporate documents, are rules of the exchange, if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 under the Act, and must be filed with the Commission pursuant to Section 19(b)(4) of the Act and Rule 19b–4 thereunder. Accordingly, each of the Exchanges filed with the Commission the following documents, along with other corporate documents, in connection with the Transaction: (1) The resolutions of BGM's board of directors (the ''BGM Board'') waiving certain provisions of the Amended and Restated Certificate of Incorporation of BGM (the ''BGM Charter'') and making certain related determinations regarding CBOE Holdings and the impact of the Transaction on the Exchanges (the ''Resolutions''); (2) the CBOE Holdings Second Amended and Restated Certificate of Incorporation (the ''CBOE Holdings Charter'') and the CBOE Holdings Third Amended and Restated Bylaws (the ''CBOE Holdings Bylaws''); (3) the Certificate of Formation of CBOE V (the ''CBOE V Certificate'') and the Limited Liability Company Operating Agreement of CBOE V (the ''CBOE V Operating Agreement''); (4) the proposed amendments to the Amended and Restated Certificate of Incorporation of BGM Holdings (the ''BGM Holdings Charter''), in the case of the Bats Exchanges; (5) the proposed amendments to the Amended and Restated Limited Liability Company Operating Agreement of Direct Edge (the ''Direct Edge Operating Agreement''), in the case of the Edge exchanges; (6) the proposed amendments to the Fourth Amended and Restated Bylaws of the Bats Exchanges (each, and collectively, the ''Bats Exchange Bylaws''), in the case of the Bats Exchanges; (7) the proposed amendments to the Fifth Amended and Restated Bylaws of the Edge Exchanges (each, and collectively, the ''Edge Exchange Bylaws''), in the case of the Edge Exchanges; and (8) the proposed amendments to various of its rules.[12]

1. Voting and Ownership Limitations

In connection with the Transaction, upon the Closing, CBOE Holdings will become the indirect owner (through CBOE V and Direct Edge) of EDGA and EDGX and the indirect owner (through CBOE V and BGM Holdings) of BZX, BYX and Bats Trading. The CBOE Holdings Charter includes restrictions on the ability to own and vote shares of capital stock of CBOE Holdings.[13] These limitations are designed to prevent any stockholder from exercising undue control over the operation of any of the Exchanges and to assure that the Exchanges and the Commission are able to carry out their regulatory obligations under the Act.

Specifically, the CBOE Holdings Charter includes restrictions on the ability to vote and own shares of stock of CBOE Holdings. Under the CBOE Holdings Charter: (1) No Person,[14] either alone or together with its Related Persons,[15] as of any record date for the determination of stockholders entitled to vote on any matter, shall be entitled to vote or cause the voting of shares of stock of CBOE Holdings, beneficially owned directly or indirectly by such Person or its Related Persons, in person or by proxy or through any voting agreement or other arrangement, to the

[11] The Commission notes that the Exchanges represented that, in connection with the Transaction, CBOE Holdings agreed in the Merger Agreement to take all requisite actions so, as of the Closing, the CBOE Holdings Board will include three individuals designated by BGM who (1) are serving as BGM directors immediately prior to the Closing and (2) comply with the policies (including clarifications of the policies provided to BGM) of the Nominating and Governance Committee of the CBOE Holdings Board as in effect on the date of the Merger Agreement and previously provided to BGM (each of whom will be appointed to the CBOE Holdings Board as of the Closing). The CBOE Holdings Board currently consists of 14 directors. The Exchanges expect three current CBOE Holdings directors to resign effective prior to the Closing and the remaining CBOE Holdings directors to fill those vacancies with the three BGM directors designated by BGM. *See* Notices, *supra* note 6, at 80102 n. 6, 80094 n. 6, 80147 n. 6, and 80116 n. 6. *See also* Securities Exchange Act Release Nos. 79267 (November 8, 2016), 81 FR 80132 (November 15, 2016) (SR–C2–2016–022) and 79268 (November 8, 2016), 81 FR 80157 (November 15, 2016) (SR–CBOE–2016–076) (notice of filing of proposed rule changes related to the composition of the CBOE Holdings Board).

[12] The Bats Exchanges each proposed to amend Rules 2.3 and 2.10 in their respective rulebooks. *See* Notices, *supra* note 6, at 80107 and 80099. The Edge Exchanges each proposed to amend Rules 2.3, 2.10, and 2.12 in their respective rulebooks. *See* Notices, *supra* note 6, at 80152 and 80120–21.

[13] These provisions are generally consistent with ownership and voting limits approved by the Commission for other SROs. *See e.g.,* Securities Exchange Act Release Nos. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11, SR–ISE Gemini–2016–05, SR–ISE Mercury–2016–10) (order approving proposed transaction in which Nasdaq, Inc. will become the indirect parent of ISE, ISE Gemini and ISE Mercury) (''Nasdaq–ISE Order''); 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGA–2013–34; SR–EDGX–2013–43) (order approving proposed business combination involving BATS Global Markets, Inc. and Direct Edge Holdings LLC); 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059, SR–BYX–2013–039) (order approving proposed business combination involving BATS Global Markets, Inc. and Direct Edge Holdings LLC); 70210 (August 15, 2013), 78 FR 51758 (August 21, 2013) (SR–NYSE–2013–42, SR–NYSEMKT–2013–50 and SR–NYSEArca–2013–62) (order approving proposed transaction in which NYSE Euronext will become a wholly owned subsidiary of IntercontinentalExchange Group, Inc.) (''IntercontinentalExchange Group, Inc. Combination Order''); 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10–198) (order approving registration application of BYX as a national securities exchange) (''BYX Approval Order''); 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File Nos. 10–194 and 10–196) (order approving registration application of EDGX Exchange, Inc. and EDGA Exchange, Inc.) (''EDGX and EDGA Approval Order''); 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008) (File No. 10–182) (order approving registration of BATS as a national securities exchange) (''BATS Approval Order''); 55293 (February 14, 2007), 72 FR 8033 (February 22, 2007) (SR–NYSE–2006–120) (order approving proposed combination between NYSE Group, Inc. and Euronext N.V.) (''NYSE-Euronext Merger Order''); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving merger of New York Stock Exchange, Inc. and Archipelago, and demutualization of New York Stock Exchange, Inc.) (''NYSE Inc.-Archipelago Merger Order''); 53963 (June 8, 2006), 71 FR 34660 (June 15, 2006) (File No. SR–NSX–2006–03) (''NSX Demutualization Order''); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (order approving registration application of NASDAQ as a national securities exchange) (''NASDAQ Approval Order''); 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26) (''CHX Demutualization Order''); and 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73) (''Phlx Demutualization Order'').

[14] *See* CBOE Holdings Charter, Article FIFTH, para. (a)(iv) (defining ''Person'').

[15] *See id.* at Article FIFTH, para. (a)(vi) (defining ''Related Person'').

extent that such shares represent in the aggregate more than 20 percent of the then outstanding votes entitled to be cast on such matter,[16] and (2) no Person, either alone or together with its Related Persons, shall be party to any agreement, plan or other arrangement relating to shares of stock of CBOE Holdings entitled to vote on any matter with any other Person, either alone or together with its Related Persons, under circumstances that would result in shares of stock of CBOE Holdings that would be subject to such agreement, plan or other arrangement not being voted on any matter, or the withholding of any proxy relating thereto, where the effect of such agreement, plan or other arrangement would be to enable any Person with the right to vote any shares of stock of CBOE Holdings, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of stock of CBOE Holdings that would exceed 20% of the then outstanding votes entitled to be cast on such matter (''CBOE Holdings Voting Restrictions'').[17]

In addition, the CBOE Holdings Charter includes ownership restrictions that provide that no Person, either alone or together with its Related Persons, shall be permitted at any time to beneficially own directly or indirectly shares of stock of CBOE Holdings representing in the aggregate more than 20 percent of the then outstanding shares of stock of CBOE Holdings (''CBOE Holdings Ownership Restrictions'').[18]

If any Person, either alone or together with its Related Persons, at any time beneficially owns shares of stock of CBOE Holdings in excess of the CBOE Holdings Ownership Restrictions, CBOE Holdings shall be obligated to redeem promptly, at a price equal to the par value of such shares of stock and to the extent funds are legally available therefor, that number of shares of stock of CBOE Holdings necessary so that such Person, together with its Related Persons, shall beneficially own directly or indirectly shares of stock of CBOE Holdings representing in the aggregate no more than 20 percent of the then outstanding shares of CBOE Holdings, after taking into account that such redeemed shares shall become treasury shares and shall no longer be deemed to be outstanding.[19]

The CBOE Holdings board of directors may waive the CBOE Holdings Ownership Restrictions and the CBOE Holdings Voting Restrictions, if, in connection with taking such action, the board of directors adopts a resolution stating that the waiver:

- Will not impair the ability of any Regulated Securities Exchange Subsidiary to discharge its responsibilities under the Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation, its stockholders and the Regulated Securities Exchange Subsidiaries;
- neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act);
- will not impair the Commission's ability to enforce the Act or the rules and regulations promulgated thereunder; and
- for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a Trading Permit Holder.[20]

Any such waiver would not be effective until approved by the Commission pursuant to Section 19 of the Act.[21] Furthermore, such Person seeking the waiver must deliver to CBOE Holdings not less than 45 days prior to any vote or acquisition, as appropriate, a notice of the intent to exceed the CBOE Holdings Ownership Restrictions or the CBOE Holdings Voting Restrictions, as appropriate.[22]

Members that trade on an exchange traditionally have had ownership interests in such exchange. As the Commission has noted in the past, however, a member's interest in an exchange could become so large as to cast doubt on whether the exchange can fairly and objectively exercise its self-regulatory responsibilities with respect to that member.[23] A member that is a controlling shareholder of an exchange might be tempted to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and surveil the member's conduct or diligently enforce its rules and the federal securities laws with respect to conduct by the member that violates such provisions.[24]

In addition, as proposed, CBOE V will be a wholly-owned subsidiary of CBOE Holdings and the CBOE V Operating Agreement identifies this ownership structure.[25] Any changes to the CBOE V Operating Agreement, including any change in the provision that identifies CBOE Holdings as the sole member of CBOE V, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[26] Similarly, as proposed, BGM Holdings and Direct Edge will each be wholly-owned subsidiaries of CBOE V. The proposed amendments to the BGM Holdings Charter and the Direct Edge Operating Agreement identify this ownership structure.[27] Any changes to the BGM Holdings Charter and the Direct Edge Operating Agreement, including any change in the provision that identifies CBOE V as the sole stockholder of BGM Holdings and the sole member of Direct Edge, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[28]

Furthermore, each of the Bats Exchanges will continue to be a wholly-owned subsidiary of BGM Holdings and the Bats Exchange Bylaws identify this ownership structure.[29] Any changes to the Bats Exchange Bylaws, including any change in the provision that identifies BGM Holdings as the sole stockholder of each Bats Exchange, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[30] Further, pursuant to the Bats Exchanges' Bylaws, BGM Holdings may not transfer or assign, in whole or in part, its ownership interest in each Bats

[16] *See id.* at Article SIXTH, para. (a).

[17] *See id.*

[18] *See id.* at Article SIXTH, para. (b).

[19] *See id.* at Article SIXTH para (b)(iii).

[20] *See id.* at Article SIXTH para. (a)(ii) and (b)(ii)(B). In making this determination, the CBOE Holdings board of directors may impose on the Person and its Related Persons such conditions and restrictions that it may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Act and the governance of CBOE Holdings. *Id.* Because the Exchanges admit members rather than issue ''trading permits,'' each Exchange proposed to amend the Exchange's Bylaws to add clause (ff) to Article I to provide that ''Trading Permit Holder'' shall have the same meaning as member. As such, the board of directors of CBOE Holdings would now be prohibited from waiving the CBOE Holdings Ownership or Voting Restrictions for a Person if it or any of its Related Persons is a member of one of the Exchanges. *See* Notices, *supra* note 6, at 80106–07, 80098, 80151–52, and 80120.

[21] *See* CBOE Holdings Charter, Article SIXTH, para. (a)(i)(C) and (b)(i).

[22] *See id.* at Article SIXTH para. (a)(i)(A) and (b)(i).

[23] *See, e.g.,* Nasdaq-ISE Order; IntercontinentalExchange Group, Inc. Combination Order; BYX Approval Order; EDGX and EDGA Approval Order; BATS Approval Order; NYSE-Euronext Merger Order; NYSE Inc.-Archipelago Merger Order; NSX Demutualization Order; NASDAQ Approval Order; CHX Demutualization Order; Phlx Demutualization Order, *supra* note 12.

[24] *See, e.g., id.*

[25] *See* proposed CBOE V Operating Agreement, Article I, para. 1.1.

[26] *See id.* at Article V, para. 5.2; 15 U.S.C. 78s(b).

[27] *See* proposed BGM Holdings Charter, Article SEVENTH, para. 4; proposed Direct Edge Operating Agreement, Article II, Section 2.01.

[28] *See* BGM Holdings Charter, Article SEVENTH, para. 3., Direct Edge Operating Agreement, Article II, Section 2.05, and 15 U.S.C. 78s(b).

[29] *See* Bats Exchange Bylaws, Article I(cc).

[30] *See* 15 U.S.C. 78s(b).

Exchange.[31] Similarly, each of the Edge Exchanges will continue to be a wholly-owned subsidiary of Direct Edge and the Edge Exchange Bylaws identify this ownership structure.[32] Any changes to the Edge Exchange Bylaws, including any change in the provision that identifies Direct Edge as the sole stockholder of each Edge Exchange, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[33] Further, pursuant to the Edge Exchange Bylaws, Direct Edge may not transfer or assign, in whole or in part, its ownership interest in each Edge Exchange.[34]

The Commission believes that these provisions are consistent with the Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or the Exchanges to effectively carry out their regulatory oversight responsibilities under the Act.

2. Jurisdiction; Books and Records; Due Regard

As described above, following the Closing, CBOE Holdings will be the sole member of CBOE V, CBOE V will be the sole stockholder of BGM Holdings and the sole member of Direct Edge, and BGM Holdings and Direct Edge will be the sole stockholders of the Bats Exchanges and the Edge Exchanges respectively. Although CBOE Holdings, CBOE V, BGM Holdings, and Direct Edge will not carry out any regulatory functions, their activities with respect to the operation of the Exchanges must be consistent with, and must not interfere with, the self-regulatory obligations of each Exchange. The CBOE Holdings Charter, CBOE Holdings Bylaws, CBOE V Operating Agreement, BGM Holdings Charter, BGM Holdings Bylaws, and Direct Edge Operating Agreement therefore include certain provisions that are designed to maintain the independence of the Exchanges'[35] self-regulatory functions, enable the Exchanges to operate in a manner that complies with the federal securities laws, including the objectives of Sections 6(b)''[36] and 19(g)[37] of the Act, and facilitate the ability of the Exchanges and the Commission to fulfill their regulatory and oversight obligations under the Act.[38]

For example, under the CBOE Holdings Charter and the CBOE V Operating Agreement, for so long as CBOE Holdings or CBOE V, as the case may be, directly or indirectly, controls any of the Exchanges, the board of directors (or sole member in the case of CBOE V), officers, employees and agents of each of CBOE Holdings and CBOE V, must give due regard to the preservation of the independence of the self-regulatory functions of each of the Exchanges, as well as to its obligations to investors and the general public and shall not take any actions that would interfere with the effectuation of any decisions by a board of directors of one of the Exchanges relating to its regulatory functions (including disciplinary matters), or which would interfere with the ability of such Exchange to carry out its responsibilities under the Act.[39]

The CBOE Holdings Charter and the CBOE V Operating Agreement would further require that CBOE Holdings or CBOE V, as the case may be, comply with the U.S. federal securities laws and rules and regulations thereunder and shall cooperate with the Commission and each of the Exchanges, pursuant to and to the extent of their respective regulatory authority.[40] In addition, the CBOE Holdings Charter and the CBOE V Operating Agreement, provide that the officers, directors, employees and agents of CBOE Holdings and CBOE V, as the case may be, by virtue of the acceptance of their position, shall be deemed to agree to: (1) comply with the U.S. federal securities laws and the rules and regulations thereunder; and (2) to cooperate with the Commission and the Exchanges in respect of the Commission's oversight responsibilities regarding the Exchanges and the self-regulatory functions and responsibilities of the Exchanges, and CBOE Holdings and CBOE V will take reasonable steps to cause its officers, directors, employees and agents to so cooperate.[41] Furthermore, CBOE Holdings, CBOE V and their respective officers, directors, employees and agents will be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and each Exchange, as applicable, for purposes of any suit, action, or proceeding pursuant to the U.S. federal securities laws or the rules or regulations thereunder arising out of, or relating to, the activities of such exchange.[42]

The CBOE Holdings Charter and the CBOE V Operating Agreement provide that CBOE Holdings, CBOE V and their respective officers, directors, employees and agents must submit to the Commission's jurisdiction with respect to activities relating to any of the Exchanges,[43] and, for so long as CBOE Holdings or CBOE V controls, directly or indirectly, such Exchange, CBOE Holdings and CBOE V agree to provide the Commission and each Exchange with access to its books and records that are related to the operation or administration of each Exchange.[44] In addition, to the extent they are related to the operation or administration of the Exchanges, the books, records, premises, officers, directors (in the case of CBOE Holdings), agents, and employees of CBOE Holdings and CBOE V shall be deemed to be the books, records, premises, officers, directors (in the case of CBOE Holdings), agents, and employees of the respective Exchange for purposes of, and subject to oversight pursuant to, the Act.[45]

The CBOE Holdings Charter and CBOE V Operating Agreement also provide that all books and records of each Exchange reflecting confidential information pertaining to the self-regulatory function of the Exchanges (including but not limited to disciplinary matters, trading data, trading practices and audit information) that shall come into the possession of CBOE Holdings or CBOE V, as the case may be, shall not be made available other than to those officers, directors (or sole member in the case of CBOE V), employees and agents of CBOE Holdings or CBOE V, as the case may be, that have a reasonable need to know the contents thereof, and shall be retained

[31] *See* Bats Exchange Bylaws, Article IV, Section 7.

[32] *See* Edge Exchange Bylaws, Article I(cc).

[33] *See* 15 U.S.C. 78s(b).

[34] *See* Edge Exchange Bylaws, Article IV, Section 7.

[35] The provisions in the CBOE Holdings Charter apply to ''Regulated Securities Exchange Subsidiary,'' which is defined as a national securities exchange controlled directly, or indirectly, by CBOE Holdings. The provisions in the CBOE V Operating Agreement apply to ''Exchange Subsidiaries,'' which is defined as any direct or indirect subsidiary of CBOE V that is registered with the Commission as a national securities exchange as provided in Section 6 of the Act. The Exchanges will be Regulated Securities Exchange Subsidiaries and Exchange Subsidiaries upon the Closing.

[36] 15 U.S.C. 78f(b).

[37] 15 U.S.C. 78s(g).

[38] *See, e.g.,* CBOE Holdings Charter Article FOURTEENTH and proposed CBOE V Operating Agreement, Article VIII, Section 8.4.

[39] *See* CBOE Holdings Charter, Article SIXTEENTH, para. (c) and proposed CBOE V Operating Agreement, Article X, Section 10.1(a).

[40] *See* CBOE Holdings Charter, Article SIXTEENTH, para. (d) and proposed CBOE V Operating Agreement, Article X, Section 10.2(a).

[41] *See* CBOE Holdings Charter, Article SIXTEENTH, para. (a) and proposed CBOE V Operating Agreement, Article X, Section 10.2(a).

[42] *See* CBOE Holdings Charter, Article FOURTEENTH and proposed CBOE V Operating Agreement, Article X, Section 10.3.

[43] *See id.*

[44] *See* CBOE Holdings Charter, Article FIFTEENTH and proposed CBOE V Operating Agreement, Article VIII, Section 8.4(b).

[45] *Id.*

in confidence by CBOE Holdings or CBOE V, the members of the board of directors or the sole member, respectively, its officers, employees and agents, and not used for any non-regulatory purposes.[46] The CBOE Holdings Charter and CBOE V Operating Agreement, however, specify that the CBOE Holdings Charter and CBOE V Operating Agreement (including these confidentiality provisions) shall not be interpreted so as to limit or impede the rights of the Commission or the Exchanges to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors (or sole member in the case of CBOE V), employees or agents of CBOE Holdings or CBOE V, as the case may be, to disclose such confidential information to the Commission or the Exchanges.[47]

The CBOE Holdings Charter, CBOE Holdings Bylaws and the CBOE V Operating Agreement provide that, for so long as CBOE Holdings or CBOE V, as the case may be, controls, directly or indirectly, a registered national securities exchange, before any amendment to, or repeal of, any provision of the proposed CBOE Holdings Charter, CBOE Holdings Bylaws or the CBOE V Operating Agreement, as the case may be, may be effective, those changes must be submitted to the board of directors of each of the Exchanges, and if the amendment is required to be filed with, or filed with and approved by the Commission pursuant to Section 19(b) of the Act,[48] such change shall not be effective until filed with, or filed with and approved by, the Commission.[49]

The Commission finds that these provisions are consistent with the Act, and that they are intended to assist each Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Act. The Commission also notes that, even in the absence of these provisions, under Section 20(a) of the Act,[50] any person with a controlling interest in any of the Exchanges shall be jointly and severally liable with and to the same extent that each Exchange is liable under any provision of the Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Act[51] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Act or rule thereunder. Further, Section 21C of the Act[52] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Act through an act or omission that the person knew or should have known would contribute to the violation.

3. Change in Control

Upon the Closing, BGM will cease to exist and the business of BGM will be carried on by CBOE V which will be a wholly owned subsidiary of CBOE Holdings. The BGM Charter includes certain restrictions on the ability to vote and own shares of stock of BGM. Specifically, the BGM Charter provides that: (1) No Person,[53] either alone or together with its Related Persons,[54] may own, directly or indirectly, of record or beneficially, shares constituting more than 40 percent of any class of its capital stock, and no Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, shares constituting more than 20 percent of any class of its capital stock (''BGM Ownership Limitation''), and (2) subject to certain exceptions, no Person, either alone or together with its Related Persons, at any time, may, directly, indirectly or pursuant to any of various arrangements, vote or cause the voting of shares or give any consent or proxy with respect to shares representing more than 20 percent of the voting power of its then issued and outstanding capital stock (''BGM Voting Limitation'').[55]

The BGM Charter also provides that the BGM Ownership Limitation and the BGM Voting Limitation may be waived (except with respect to Members and their Related Persons) pursuant to a resolution duly adopted by the board of directors of BGM if, in connection with taking such action, the board of directors states in such resolution that it is the determination of the board of directors that the waiver: (1) Will not impair the ability of each Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder; (2) is otherwise in the best interests of BGM, its stockholders, and the Exchanges; (3) will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; and (4) shall not be effective until it is filed with and approved by the Commission.[56]

As described above, as a result of the Merger (and prior to its separate existence ceasing as a result of the Subsequent Merger), BGM will become a wholly owned subsidiary of CBOE Holdings, such that CBOE Holdings will possess ownership and voting rights in BGM in excess of the BGM Ownership Limitation and the BGM Voting Limitation. As a result of the Subsequent Merger, BGM will merge with and into CBOE V, terminating the BGM Charter.

Therefore, the Exchanges represented that the board of directors of BGM determined that in order to effect the Transaction, a waiver of the BGM Ownership Limitation and the BGM Voting Limitation with respect to CBOE Holdings would be required. To do so, the board of directors of BGM adopted the Resolutions, making certain determinations with respect to CBOE Holdings and the Transaction that are necessary to waive the BGM Ownership Limitation and BGM Voting Limitation.

Specifically, the board of directors of BGM made the following determinations: (1) The acquisition of the proposed ownership by CBOE Holdings in BGM will not impair the ability of each Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder, is otherwise in the best interests of BGM, its stockholders and the Exchanges, and will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; (2) the acquisition or exercise of the proposed voting rights by CBOE Holdings in BGM will not impair the ability of each Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder, that it is otherwise in the best interests of the

[46] *See* CBOE Holdings Charter, Article FIFTEENTH and proposed CBOE V Operating Agreement, Article VIII, Section 8.4(a).

[47] *See id.*

[48] 15 U.S.C. 78s(b).

[49] *See* CBOE Holdings Charter, Article TWELFTH, CBOE Holdings Bylaws, Article 10, Section 10.1 and proposed CBOE V Operating Agreement, Article XI, Section 11.2.

[50] 15 U.S.C. 78t(a).

[51] 15 U.S.C. 78t(e).

[52] 15 U.S.C. 78u–3.

[53] *See* BGM Charter, Article FIFTH, para. (a)(i) (defining ''Person'').

[54] *See id.* at Article FIFTH, para. (a)(ii) (defining ''Related Persons'').

[55] *See* BGM Charter, Article FIFTH, para. (b).

[56] *See* BGM Charter, Article FIFTH, para. (b)(ii)(B). In granting such a waiver, the BGM board of directors has the discretion to impose on the person and its Related Persons, such conditions and restrictions that it deems necessary, appropriate or desirable in furtherance of the objectives of the Act and the rules and regulations promulgated thereunder, and the governance of each Exchange. *Id.*

BGM, its stockholders and the Exchanges, and that it will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; (3) neither CBOE Holdings, nor any of its Related Persons,[57] is subject to ''statutory disqualification'' within the meaning of Section 3(a)(39) of the Act;[58] and (4) neither CBOE Holdings, nor any of its Related Persons is a Member.[59]

The Commission believes that it is consistent with the Act to allow CBOE Holdings to wholly-own and vote all of the outstanding common stock of BGM. The Commission notes that CBOE Holdings, the new top-level holding company for the Exchanges, currently owns other national securities exchanges and is subject to governance documents that restrict concentration of ownership and voting rights.[60] The Commission also notes that, the BGM Holdings Charter and the Direct Edge Operating Agreement will specify that BGM Holdings' sole stockholder and Direct Edge's sole member will be CBOE V, a wholly owned subsidiary of CBOE Holdings.[61] As noted above, any changes to the CBOE V Operating Agreement, including any change in the provision that identifies CBOE Holdings as the sole member of CBOE V, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[62] In addition, and as discussed above, CBOE Holdings and CBOE V have also included in their corporate documents certain provisions designed to maintain the independence of each Exchange's regulatory functions from CBOE Holdings and CBOE V.[63] Accordingly, the Commission does not believe that the Transaction will impair the ability of any of the Exchanges to carry out the functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder, or the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder.

4. Miscellaneous Changes to the Bylaws and Rules of the Exchanges

a. Bylaws of the Exchanges

The board of directors of each Exchange will continue to be the governing body of their respective Exchange and possess all of the powers necessary for the management of the business and affairs of their respective Exchange and the execution of their respective responsibilities as SROs. In connection with the Transaction, each Exchange proposed a change to their Bylaws. Each Exchange proposes to amend Section 2 of Article XI of their Bylaws to remove references to BGM and add references to CBOE Holdings and CBOE V.[64] The Exchanges' Bylaws prohibit directors of BGM, or BGM Holdings or Direct Edge, as applicable, who are not also directors, officers, staff, counsel or advisors of the Exchange from participating in any meetings of the Exchange's board of directors (or any committee thereof) pertaining to the self-regulatory function of the Exchange (including disciplinary matters).[65] The Exchanges proposed to delete references to BGM from this provision and add references to CBOE Holdings and CBOE V, which following the Transaction, will become the indirect owners of each Exchange. The Commission believes that removing references to BGM and replacing them with references to CBOE Holdings and CBOE V in Section 2 of Article XI of the Exchanges' Bylaws is consistent with the Act.

b. Member Eligibility

Rule 2.3 of each of the Exchanges' rulebooks generally provides that in order to be eligible for membership in one of the Exchanges, a registered broker or dealer is required to be a member of at least one other national securities association or national securities exchange. Membership in the Exchanges' affiliated national securities exchanges (either BZX, BYX, EDGA, or EDGX as the case may be) is not sufficient for purposes of membership eligibility.[66] According to the Exchanges, the rule is designed to ensure that a member of any of the Exchanges would be supervised by a national securities association or national securities exchange that functions as the member's designated examining authority (''DEA'').[67] The Exchanges do not function as the DEA for any of its members.[68] As discussed above, as a result of the Transaction, the Exchanges will become affiliated with the CBOE Exchanges. One of these exchanges, CBOE, does act as the DEA for certain of its members.[69] However, C2 does not function as the DEA for any of its members.[70] The Exchanges stated that they continue to believe that it is appropriate to limit membership to registered broker-dealers that are members of at least one national securities association or national securities exchange that is not affiliated with the Exchanges.[71] Therefore, the Exchanges proposed to amend Rule 2.3 to specify that a registered broker-dealer will be eligible for membership only if it is a member of a national securities association or national securities exchange other than BZX, BYX, EDGA, EDGX, or C2. The Exchanges are not excluding CBOE from the rule because it is possible for CBOE to function as a DEA for its members.[72]

The Commission notes that the proposed changes to Rule 2.3 of each Exchanges' rulebook extends the membership eligibility criteria in a way that is consistent with the current rule, taking into account the Exchanges' new affiliation with the CBOE Exchanges.

c. Affiliation Between Exchange and a Member

Rule 2.10 of each Exchange generally provides that, without the prior approval of the Commission, (i) each Exchange or any entity with which each Exchange is affiliated (as defined in Rule 12b–2 under the Act[73]), may not directly or indirectly acquire or maintain an ownership interest in a Member of the Exchange, and (ii) a Member of an Exchange may not be or become an affiliate of the Exchange, or an affiliate of any affiliate of the Exchanges. The Exchanges note that the purpose of Rule 2.10 is to prevent or manage potential conflicts of interest that could arise from the Exchanges or

[57] *See supra* note 53.

[58] 15 U.S.C. 78c(a)(39).

[59] The Resolutions also contain a determination that the execution and delivery of the Merger Agreement by CBOE constituted notice of CBOE's intention to acquire ownership and voting rights in excess of the BGM Ownership Limitation and BGM Voting Limitation, respectively, in writing and not less than 45 days before the Closing. *See* BGM Charter, Article FIFTH, para. (b)(iv).

[60] *See supra* notes 14–22 and accompanying text.

[61] *See supra* notes 27–28 and accompanying text.

[62] *See supra* note 26 and accompanying text.

[63] *See supra* note 39 and accompanying text.

[64] *See* Article XI, Section 2 of Bats Exchange Bylaws and Edge Exchange Bylaws.

[65] *See id.*

[66] *See* BZX, BYX, EDGX and EDGA Rule 2.3.

[67] *See* Notices, *supra* note 6, at 80107, 80099, 80120–21, and 80152.

[68] *See id.*

[69] *See id.*

[70] *See id.*

[71] *See id.*

[72] In addition, to ensure there is no confusion with respect to the possibility that a broker or dealer could qualify for membership in the Exchange based solely on membership in CBOE Futures or any other national securities exchange notice-registered with the Commission pursuant to Section 6(g) of the Act that lists or trades security-futures products, the Exchanges propose to also specify that eligibility for membership requires membership in a national securities association registered pursuant to Section 15A of the Act or a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, so as to exclude a national securities exchange registered solely under Section 6(g) of the Act.

[73] 17 CFR 240.12b–2.

their affiliates having an ownership interest in a Member.[74]

Current Rule 2.10 provides that notwithstanding the affiliation prohibitions the rule does not prohibit a member or its affiliate from acquiring or holding an equity interest in BGM that is permitted by the ownership and voting limitations contained in the BGM Charter and the BGM Bylaws. In addition, Rule 2.10 states that it does not prohibit a member from being or becoming an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, solely by reason of such member or any officer, director, manager, managing member, partner or affiliate of such member being or becoming either (a) a director of the Exchange pursuant to the Bylaws of the Exchange, or (b) a director of the Exchange serving on the board of directors of BGM.

The Exchanges propose to replace the references to BGM with CBOE Holdings to reflect that following the Closing, CBOE Holdings will replace BGM as the ultimate parent company of each Exchange.[75] The Commission believes that these amendments are consistent with the Act as they are technical in nature. They do not alter any of the restrictions contained in Rule 2.10, rather the amendments merely update the rule text to reflect the new ownership of the Exchanges.

d. Bats Trading as Inbound Router

The Edge Exchanges also proposed to amend Rule 2.12 in each of their rulebooks to replace a reference to BGM with ''the holding company indirectly owning the Exchange and Bats Trading.'' According to the Edge Exchanges, the rule is designed to ensure that Bats Trading, as inbound router for the Exchanges does not develop or implement changes to its systems on the basis of nonpublic information obtained as a result of its affiliation with the Exchanges until such information is available generally to similarly situation members of the Exchanges in connection with the provision of inbound order routing to one of the Exchanges.[76] The proposed amendment does not alter the obligations Rule 2.12 imposes on the Edge Exchanges, but rather is a technical change to reflect the change in ownership of the Edge Exchanges. The proposed new rule language is consistent with the language used in Rule 2.12 in the Bats Exchanges' rulebooks. As such, the Commission believes that this change is consistent with the Act.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule changes are consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[77] that the proposed rule changes (SR–BatsBZX–2016–68; SR–BatsBYX–2016–29; SR–BatsEDGA–2016–24 and SR–BatsEDGX–2016–60) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[78]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30796 Filed 12–21–16; 8:45 am]

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[74] *See* Notices, *supra* note 6, at 80107, 80099, 80152 and 80121.

[75] The Exchanges also proposed to add the three CBOE Exchanges to the list of eligible Exchange affiliates to reflect that following the Closing, the CBOE Exchanges will be affiliates of the Exchanges. *See* proposed BZX, BYX, EDGA and EDGX Rule 2.10. In addition, the Edge Exchanges also proposed to remove references in Rule 2.10 to DE Route, as DE Route is no longer the routing broker-dealer for the Edge Exchanges. Bats Trading is now the Edge Exchanges' routing broker-dealer. *See* proposed EDGA and EDGX Rule 2.10.

[76] *See* Notices, *supra* note 6, at 80121 and 80152.

[77] 15 U.S.C. 78s(b)(2).

[78] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79577; File No. 601–01]

Euroclear Bank SA/NV; Order of the Commission Approving an Application To Modify an Existing Exemption From Clearing Agency Registration

December 16, 2016

I. Introduction

Euroclear Bank SA/NV (''EB'') filed with the Securities and Exchange Commission (''Commission'') on May 9, 2016, an application on Form CA–1 requesting to modify an existing exemption[1] from registration as a clearing agency (''Modification Application'')[2] pursuant to Section 17A[3] of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 17Ab2–1 thereunder.[4] Notice of EB's Modification Application was published for comment in the **Federal Register** on September 6, 2016 (''Modification Application Notice'').[5] The comment period closed on October 6, 2016, and the Commission received four comments, all of which were broadly supportive of the application.[6]

Subject to certain limitations and conditions, the Existing Exemption enables EB, as operator of the Euroclear System,[7] to perform the functions of a clearing agency with respect to transactions involving certain U.S. government securities[8] for its U.S. participants[9] without registering as a

[1] *See* Self-Regulatory Organizations; Morgan Guaranty Trust Company of New York, Brussels Office, as Operator of the Euroclear System; Order Approving Application for Exemption From Registration as a Clearing Agency, Exchange Act Release No. 39643 (Feb. 11, 1998), 63 FR 8232 (Feb. 18, 1998) (''Original Exemption Order''); and Self-Regulatory Organizations; Morgan Guaranty Trust Company, Brussels Office, as Operator of the Euroclear System and Euroclear Bank, S.A.; Order Approving Application to Modify an Existing Exemption From Clearing Agency Registration, Exchange Act Release No. 43775 (Dec. 28, 2000), 66 FR 819 (Jan. 4, 2001) (''2001 Exemption Modification Order'') (together the ''Existing Exemption'').

[2] The descriptions set forth in this notice regarding the structure and operations of EB have been derived primarily from information contained in EB's amended Form CA–1 application and publicly available sources. The redacted Modification Application and non-confidential exhibits thereto are available on the Commission's Web site.

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ab2–1.

[5] *See* Euroclear Bank SA/NV; Notice of Filing of Application To Modify an Existing Exemption From Clearing Agency Registration, Exchange Act Release No. 34–78710 (Aug. 29, 2016), 81 FR 61271 (Sept. 6, 2016).

[6] *See* letters from Mark Jennis, Managing Director, DTCC (Sept. 13, 2016) (''DTCC letter''); Oscar A. Huettner, Managing Principal, LGM Financial Consulting LLC (Sept. 12, 2016) (''LGM letter''); Charles Cascarilla, Chief Executive Officer and Co-Founder, Paxos (Oct. 6, 2016) (''Paxos letter''); Kyle Brandon, Managing Director, and Robert Toomey, Esq., Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (Oct. 6, 2016) (''SIFMA letter'').

[7] ''Euroclear System'' means the securities settlement system that has been operated by EB or its predecessor since 1968 and the assets, means, and rights related to such services. All services performed by EB that relate to securities settlement and custody are part of the Euroclear System. *See* Modification Application, Exhibit S–1 at 1.

[8] As used herein, the term ''U.S. Government Securities'' has the same meaning as the term ''eligible U.S. government securities'' used in the Existing Exemption, which consists of government securities described in Section 3(a)(42) of the Exchange Act, except that it does not include any (i) foreign-targeted U.S. government or agency securities or (ii) securities issued or guaranteed by the International Bank for Reconstruction and Development (*i.e.,* the World Bank) or any other similar international organization, and that are (i) Fedwire-eligible U.S. government securities, (ii) mortgage-backed pass through securities that are guaranteed by the Government National Mortgage Association (''GNMA''), and (iii) any collateralized mortgage obligation whose underlying securities are Fedwire-eligible U.S. government securities or GNMA guaranteed mortgage-backed pass through securities and which are depository eligible securities. For reference purposes, Fedwire is a large-value transfer system operated by the Board of Governors of the Federal Reserve System that supports the electronic transfer of funds and of book-entry securities. *See* Original Exemption Order, *supra* note 1, at 8239.

[9] As used herein, the term ''U.S. Participant'' refers to any Euroclear System participant having a