

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74116; File No. 10-214]

Automated Matching Systems Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Grant or Deny a Limited Volume Exemption From Registration as a National Securities Exchange Under Section 5 of the Securities Exchange Act of 1934

January 22, 2015.

On July 7, 2014, Automated Matching Systems Exchange, LLC (“AMSE”) submitted to the Securities and Exchange Commission (“Commission”) an application seeking a limited volume exemption under Section 5 of the Securities Exchange Act (“Exchange Act”) from registration as a national securities exchange under Section 6 of the Exchange Act.¹ Notice of AMSE’s exemption application was published for comment in the **Federal Register** on July 29, 2014.² On October 23, 2014, the Commission issued an order instituting proceedings to determine whether to grant or deny AMSE’s exemption application.³ On November 10, 2014, AMSE submitted Amendment No. 1 to its exemption application. Notice of Amendment No. 1 to AMSE’s exemption application was published for comment in the **Federal Register** on December 30, 2014.⁴

Section 19(a) of the Exchange Act provides that the Commission shall, upon the filing of an application for registration as a national securities exchange pursuant to Section 6 of the Exchange Act,⁵ publish notice of such filing and afford interested persons an opportunity to submit written data, views, and arguments concerning such application, and within 90 days of the date of publication of such notice (or within such longer period as to which the applicant consents), by order grant

¹ The Commission notes that AMSE’s application only seeks a limited volume exemption under Section 5 of the Exchange Act from registration as a national securities exchange under Section 6 of the Exchange Act. AMSE’s application does not seek to register as a national securities exchange.

² See Securities Exchange Act Release No. 72661 (July 23, 2014), 79 FR 44070 (“Notice”).

³ See Securities Exchange Act Release No. 73419 (October 23, 2014), 79 FR 64421 (October 29, 2014) (“Order Instituting Proceedings”).

⁴ See Securities Exchange Act Release No. 73991 (December 22, 2014), 79 FR 78507 (action by delegated authority) (“Amendment Notice”).

⁵ AMSE’s exemption application has been filed pursuant to Section 5 of the Exchange Act. The Commission is affording AMSE’s exemption application a process similar to that for exchange registration applications under Section 19(a) of the Exchange Act.

such registration or institute proceedings to determine whether such registration should be denied. Such proceedings must be concluded within 180 days of the date of a publication of notice of the filing of the application for registration.⁶ However, the Commission may extend the time for conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents. AMSE’s exemption application was published for notice and comment in the **Federal Register** on July 29, 2014.⁷ The 180th day after publication of the notice of AMSE’s exemption application in the **Federal Register** is January 25, 2014, and the 270th day after publication of the notice of AMSE’s exemption application in the **Federal Register** is April 25, 2015.

The Commission finds that good cause exists to extend the time for conclusion of the proceedings to determine whether to grant or deny AMSE’s exemption application in order for the Commission to have sufficient time to consider AMSE’s amended exemption application, including any comment letters received on AMSE’s amended exemption application.⁸ Accordingly, pursuant to Section 19(a)(1)(B) of the Exchange Act, the Commission extends the time for conclusion of the proceedings to determine whether to grant or deny AMSE’s exemption application to April 24, 2015.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2015-01426 Filed 1-26-15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74110; File No. 4-631]

Joint Industry Plan; Notice of Filing of the Eighth 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.

January 21, 2015.

I. Introduction

On December 24, 2014, Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the following parties to the National Market System Plan: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, and National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively with FINRA, the “Participants”), filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² a proposal to amend the Plan to Address Extraordinary Market Volatility (“Plan”).³ The proposal represents the eighth amendment to the Plan (“Eighth Amendment”), and reflects changes unanimously approved by the Participants. The Eighth Amendment to the Plan proposes to: (i) Establish a requirement for the Participants to submit a supplemental joint assessment to the Commission by May 29, 2015; and (ii) extend the end date of the pilot period of the Plan from February 20, 2015 to October 23, 2015. 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

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ See Letter from Christopher B. Stone, Vice President, FINRA, to Brent Fields, Secretary, Commission, dated December 24, 2014 (“Transmittal Letter”).

⁶ See *id.* and Section 19(a) of the Exchange Act.

⁷ *Id.*

⁸ See *supra* note 4.

persons on the Eighth Amendment to the Plan.⁴

II. Description of the Proposal

A. Purpose of the Plan

The Participants filed the Plan in order to create a market-wide limit up-limit down mechanism that is intended to address extraordinary market volatility in “NMS Stocks,” as defined in Rule 600(b)(47) of Regulation NMS under the Act.⁵ The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that are designed to prevent trades in individual NMS Stocks from occurring outside of the specified price bands.⁶ These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

As set forth in Section V of the Plan, the price bands consist of a Lower Price Band and an Upper Price Band for each NMS Stock.⁷ The price bands are calculated by the Securities Information Processors (“SIPs” or “Processors”) responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Act.⁸ Those price bands are based on a Reference Price⁹ for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period. The price bands for an NMS Stock are calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter¹⁰ below the

⁴ “Any two or more self-regulatory organizations, acting jointly, . . . may propose an amendment to an effective national market system plan [] by submitting the text of the plan or amendment to the Secretary of the Commission, together with a statement of the purpose of such plan or amendment . . .” 17 CFR 242.608(a)(1) The Commission is required to publish notice of the filing of any proposed amendment to any effective national market system plan, together with the terms of substance of the filing or a description of the subjects and issues involved, and shall provide interested persons an opportunity to submit written comments. *See* 17 CFR 242.608(b)(1). No amendment to a national market system plan shall become effective unless approved by the Commission or otherwise permitted in accordance with Rule 608(b)(3). *See id.*

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

⁶ *See* Section V of the Plan.

⁷ Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Plan. *See Exhibit A, infra.*

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

⁹ *See* Section I(T) of the Plan.

¹⁰ As initially proposed by the Participants, the Percentage Parameters for Tier 1 NMS Stocks (*i.e.*,

Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. Between 9:30 a.m. and 9:45 a.m. ET and 3:35 p.m. and 4:00 p.m. ET, the price bands are calculated by applying double the Percentage Parameters as set forth in Appendix A of the Plan.

The Processors also calculate a Pro-Forma Reference Price for each NMS Stock on a continuous basis during Regular Trading Hours. If a Pro-Forma Reference Price does not move by one percent or more from the Reference Price in effect, no new price bands are disseminated, and the current Reference Price remains the effective Reference Price. If the Pro-Forma Reference Price moves by one percent or more from the Reference Price in effect, the Pro-Forma Reference Price becomes the Reference Price, and the Processors disseminate new price bands based on the new Reference Price. Each new Reference Price remains in effect for at least 30 seconds.

When one side of the market for an individual security is outside the applicable price band, the Processors are required to disseminate such National Best Bid¹¹ or National Best Offer¹² with an appropriate flag identifying it as non-executable. When the other side of the market reaches the applicable price band, the market for an individual security enters a Limit State,¹³ and the Processors are required to disseminate such National Best Offer or National Best Bid with an appropriate flag identifying it as a Limit State Quotation.¹⁴ All trading immediately

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

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

¹² *Id.*

¹³ A stock enters the Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer. *See* Section VI(B) of the Plan.

¹⁴ *See* Section I(D) of the Plan.

enters a Limit State if the National Best Offer equals the Lower Limit Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Limit Band and does not cross the National Best Offer. Trading for an NMS Stock exits a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations are executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange declares a five-minute Trading Pause, which is applicable to all markets trading the security.

These limit up-limit down requirements are coupled with Trading Pauses¹⁵ to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). As set forth in more detail in the Plan, all trading centers¹⁶ in NMS Stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and Trading Pause requirements specified in the Plan.

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

As stated by the Participants in the Plan, the limit up-limit down mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS

¹⁵ The primary listing market declares a Trading Pause in an NMS Stock; upon notification by the primary listing market, the Processor disseminates this information to the public. No trades in that NMS Stock could occur during the Trading Pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

¹⁶ As defined in Section I(X) of the Plan, a trading center shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Act.

Stocks,¹⁷ thereby protecting investors and promoting a fair and orderly market.¹⁸ In particular, the Plan is designed to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.¹⁹ The initial date of Plan operations was April 8, 2013.²⁰

The following summarizes the Eighth Amendment to the Plan and the rationale behind those changes:

Proposed Amendment

The Eighth Amendment proposes two changes to the Plan. First, the Participants propose to amend Appendix B of the Plan to state that, by May 29, 2015, the Participants shall provide to the Commission a supplemental joint assessment relating to the impact of the Plan. On September 29, 2014, the Participants submitted a Participant Impact Assessment,²¹ which provided the Commission with the Participants' initial observations in each area required to be addressed under Appendix B to the Plan. Though the Participants have submitted the Participant Impact Assessment, they believe that a supplemental joint assessment is appropriate. The supplemental joint assessment would evaluate the impact of the Plan using the measures set forth in Appendix B, but would be an extensive assessment based upon a data-driven analysis across trading centers using methodology agreed upon by the Participants, which would allow the Participants to make unified recommendations, where appropriate, that would be of greater value to the Commission and the public than separate submissions. The Participants also state that they intend to make the supplemental joint assessment publicly available.

The Participants intend to engage a third-party consultant to assist in conducting the cross-market analysis and preparing the supplemental joint assessment. The Participants believe that the process of selecting, engaging, meeting with, and providing required data to the ultimate third-party

consultant will be time consuming, but beneficial in that it would facilitate the development of a joint assessment that, unlike individual Participant submissions, would not need to be compared and reconciled.

Second, the Participants propose to amend Section VIII.C the Plan to extend the pilot period of the Plan from February 20, 2015 through October 23, 2015. The Participants believe that extension of the pilot period is necessary and appropriate in the interest of the public, including because additional time will: (i) Provide a reasonable period of time for the public to comment on the supplemental joint assessment and recommendations; (ii) provide Participants time to use the information collected during the operation of the Plan to perform further analysis and recommend amendments to the Plan; and (iii) allow the Commission adequate time to review the supplemental joint assessment and recommendations provided by the Participants, and determine if any modifications to the Plan are appropriate. The Participants also believe that the proposed amendment is consistent with the approval order for the Plan, in which the Commission stated that having a pilot period would allow "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."²² Finally, the Participants believe that the proposed amendment, which provides for additional time to observe the operation of the Pilot, as well as to prepare and submit a supplemental joint assessment, will facilitate the development of better recommendations and will allow the Participants to make unified recommendations, where appropriate, regarding the operation of the Plan.

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, 2014. 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.

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.

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 October 23, 2015.

E. Analysis of Impact on Competition

The proposed 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.

¹⁷ 17 CFR 242.600(b)(47).

¹⁸ See Transmittal Letter, *supra* note 3.

¹⁹ The limit up-limit down mechanism set forth in the Plan replaces the existing single-stock circuit breaker pilot. See e.g., Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR-FINRA-2010-025); 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR-FINRA-2010-033).

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

²¹ See Letter from Participants to Brent J. Fields, Secretary, Commission, dated September 29, 2014 ("Participant Impact Assessment").

²² See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 at 33508 (June 6, 2012).

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 September 18, 2014, the Operating Committee, duly constituted and chaired by Mr. Christopher B. Stone of FINRA, met and voted to amend the Plan as set forth herein in accordance with Section III(C) of the Plan.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Eighth 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 email to rule-comments@sec.gov. Please include File Number 4-631 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, 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 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/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 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. 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 February 17, 2015.

By the Commission.

Brent J. Fields,

Secretary.

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For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551-5400.

Dated: January 22, 2015.

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74115; File No. SR-BYX-2012-019]

Self-Regulatory Organization; BATS Y-Exchange, Inc., Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program

January 22, 2015.

On November 27, 2012, the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")¹ that granted the BATS Y-Exchange, Inc. ("BYX" or the "Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement ("RPI") Program (the "Program"). The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.² The exemption was granted coterminous with the effectiveness of the pilot Program and has been extended once;³ both the pilot Program and exemption are scheduled to expire on January 31, 2015.

The Exchange now seeks to extend the exemption until January 31, 2016.⁴ The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until January

¹ 17 CFR 242.612(c).

² See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) ("RPI Approval Order") (SR-BYX-2012-019).

³ See Securities Exchange Act Release No. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2012) (SR-BYX-2014-001) (extending the pilot period); Securities Exchange Act Release No. 71250 (January 7, 2014), 79 FR 2234 (January 13, 2012) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program).

⁴ See letter from Eric Swanson, Senior Vice President and General Counsel, BYX, to Elizabeth M. Murphy, Secretary, Commission, dated January 16, 2015.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; Consideration of amicus participation; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.