

determine (1) The practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

The RRB utilizes the following forms to conduct its representative payee monitoring program. Form G-99a, *Representative Payee Report*, is used to obtain information needed to determine whether the benefit payments certified to the representative payee have been used for the annuitant's current maintenance and personal needs and whether the representative payee continues to be concerned with the annuitant's welfare. RRB Form G-99c, *Representative Payee Evaluation Report*, is used to obtain more detailed information from a representative payee who fails to complete and return Form G-99a, or in situations when the returned Form G-99a indicates the possible misuse of funds by the representative payee. Form G-99c contains specific questions concerning the representative payee's performance and is used by the RRB to determine whether or not the representative payee should continue in that capacity. Completion of the forms in this collection is required to retain benefits.

*Previous Requests for Comments:* The RRB has already published the initial 60-day notice (75 FR 41557 on July 16, 2010) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

#### Information Collection Request (ICR)

*Title:* Representative Payee Monitoring.

*OMB Control Number:* 3220-0151.

*Form(s) submitted:* G-99a, G-99c.

*Type of request:* Extension without change of a currently approved collection.

*Affected public:* Individuals or households.

*Abstract:* Under Section 12(a) of the Railroad Retirement Act, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as representative payee. The collection obtains information needed to determine if a representative payee is handling benefit payments in the best interest of the annuitant.

*Changes Proposed:* The RRB proposes no changes to Forms G-99a or Form G-99c.

*The burden estimate for the ICR is as follows:*

*Estimated Completion Time for Form(s):* Completion time for G-99a is estimated at 18 minutes. Completion time for Form G-99c is estimated at 24 to 31 minutes.

*Estimated Annual Number of Respondents:* 5,400.

*Total Annual Responses:* 5,820 (5,400 G-99a's and 420 G-99c's).

*Total Annual Reporting Hours:* 1,802.

*Additional Information or Comments:* Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312-751-3363) or [Charles.Mierzwa@rrb.gov](mailto:Charles.Mierzwa@rrb.gov).

Comments regarding the information collection should be addressed to Patricia A. Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or [Patricia.Henaghan@rrb.gov](mailto:Patricia.Henaghan@rrb.gov) and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Charles Mierzwa,**

*Clearance Officer.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63719, File No. 4-518]

### Joint Industry Plan; Order Approving Amendment To Add the BATS Y-Exchange, Inc. as Participant to National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS

January 14, 2011.

#### I. Introduction

On September 9, 2010, the BATS Y-Exchange, Inc. ("BYX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission") in accordance with Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 of Regulation NMS,<sup>2</sup> a proposed amendment to the national market system plan establishing procedures under Rule 605 of Regulation NMS ("Joint-SRO Plan" or "Plan").<sup>3</sup> Under the

proposed amendment, BYX would be added as a participant to the Joint-SRO Plan. Notice of filing and an order granting temporary effectiveness of the proposal through January 18, 2011 were published in the **Federal Register** on September 17, 2010.<sup>4</sup> The Commission did not receive any comments on the proposed amendment. This order approves the amendment on a permanent basis.

#### II. Discussion

The Joint-SRO Plan establishes procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS, available to the public in a uniform, readily accessible, and usable electronic format. The current participants to the Joint-SRO Plan are the American Stock Exchange LLC, BATS Exchange, Inc., Boston Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc. (n/k/a National Stock Exchange<sup>SM</sup>), EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC, National Association of Securities Dealers, Inc., New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC), Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and Philadelphia Stock Exchange, Inc. The proposed amendment would add BYX as a participant to the Joint-SRO Plan.

Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in Section II(a) of the Plan and the new participant's single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval. BYX submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants.

The Commission finds that the amendment to the Joint-SRO Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the

plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Rule 11Ac1-5 under the Act (n/k/a Rule 605 of Regulation NMS). See Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

<sup>4</sup> See Securities Exchange Act Release No. 62896 (September 13, 2010), 75 FR 57088.

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> 17 CFR 242.605. On April 12, 2001, the Commission approved a national market system

Commission finds that the proposed amendment is consistent with the requirements of Section 11A of the Act,<sup>5</sup> and Rule 608 of Regulation NMS.<sup>6</sup> The Plan established appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS available to the public in a uniform, readily accessible, and usable electronic format. The amendment to include BYX as a participant in the Joint-SRO Plan should contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow BYX to become a participant in the Joint-SRO Plan. The Commission finds, therefore, that approving the amendment to the Joint-SRO Plan is appropriate and consistent with Section 11A of the Act.<sup>7</sup>

### III. Conclusion

*It is therefore ordered*, pursuant to Section 11A(a)(3)(B) of the Act<sup>8</sup> and Rule 608 of Regulation NMS,<sup>9</sup> that the amendment to the Joint-SRO Plan to add BYX as a participant is approved and BYX is authorized to act jointly with the other participants to the Joint-SRO Plan in planning, developing, operating, or regulating the Plan as a means of facilitating a national market system.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Elizabeth M. Murphy,**

Secretary.

[FR Doc. 2011-1431 Filed 1-24-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63731; File No. SR-BX-2010-083]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving a Proposed Rule Change Relating to the Price Improvement Period To Permit an Initiating Participant To Designate a PIP Surrender Quantity

January 19, 2011.

On November 24, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to the Rules of the Boston Options Exchange Group, LLC ("BOX") to permit an Options Participant initiating a Price Improvement Period ("PIP") to designate a PIP Surrender Quantity. Notice of the proposed rule change was published for comment in the **Federal Register** on December 8, 2010.<sup>3</sup> The Commission received no comments on the proposal.

Currently, the BOX rules that govern the PIP ("PIP Rules")<sup>4</sup> generally allow an Options Participant initiating a PIP ("Initiating Participant") to retain priority and trade allocation privileges for forty percent (40%) of the size of a PIP Order upon conclusion of the PIP auction.<sup>5</sup> This proposed rule change will permit an Initiating Participant, when starting a PIP auction, to submit the Primary Improvement Order to BOX with a designation to specify a quantity of contracts that it is willing to "surrender" from the number of contracts to which it is entitled to other Options Participants ("PIP Surrender Quantity").<sup>6</sup> By designating a PIP Surrender Quantity, the Initiating Participant could potentially be allocated less than the forty percent (40%) to which it may be entitled under BOX Rules.<sup>7</sup>

<sup>1</sup> 17 CFR 242.608.

<sup>2</sup> 17 CFR 200.30-3(a)(29).

<sup>3</sup> 15 U.S.C. 78s(b)(1).

<sup>4</sup> 17 CFR 240.19b-4.

<sup>5</sup> See Securities Exchange Act Release No. 63416 (December 2, 2010), 75 FR 76503.

<sup>6</sup> See Chapter V, Section 18 of the Rules of the Boston Options Exchange Group, LLC ("BOX Rules").

<sup>7</sup> See *id.*, paragraphs f(i)-f(ii).

<sup>8</sup> The Initiating Participant would specify the PIP Surrender Quantity as a number of contracts, not as a percentage of the total PIP Order. Telephone conversation between Michael Burbach, Vice President of Legal Affairs, BOX and Ira Brandriss,

The proposed rule change further makes clear that in no case shall the Initiating Participant's use of the Surrender Quantity function result in an allocation to the Initiating Participant that would be greater than the maximum allowable allocation the Initiating Participant would otherwise receive in accordance with the allocation procedures set forth in the PIP Rules.<sup>8</sup> The proposal specifies that the PIP Surrender Quantity shall not be effective for an amount that is lesser than or equal to sixty percent (60%) of the size of the PIP Order.

Additionally, the proposed rule change will modify the BOX Trading Host's trade allocation at the conclusion of the PIP auction to account for the PIP Surrender Quantity. The proposal specifies that when the BOX Trading Host determines the priority and trade allocation amounts for the Initiating Participant upon the conclusion of the PIP auction, the Trading Host will automatically adjust the trade allocations to the other PIP Participants according to the priority set forth generally in the PIP Rules,<sup>9</sup> providing a total amount to the other PIP Participants up to the PIP Surrender Quantity. Under the proposal, the Primary Improvement Order is allocated the remaining size of the PIP Order, if any. If the aggregate size of other PIP Participants' contra orders is not equal to or greater than the PIP Surrender Quantity, then the remaining PIP Surrender Quantity shall be left unfilled by those participants and the Primary Improvement Order shall be allocated the remaining size of the PIP Order as set forth in the PIP Rules.<sup>10</sup> The Exchange has stated that it will provide Options Participants with three (3) business days notice, via Information Circular, about the implementation date of the PIP Surrender Quantity prior to

<sup>7</sup> The Primary Improvement Order would also still yield priority to certain competing orders in certain circumstances. See PIP Rules, *supra* note 4, paragraph (f)(iii). In the case of a Max Improvement Primary Improvement Order, see subsection (e)(ii) of the PIP Rules, the Surrender Quantity would be deducted from the number of contracts, if any, remaining for the Initiating Participant at the last level of allocation—*i.e.*, from the 40% share to which the Initiating Participant is entitled at that level—and ceded to any other Options Participants at that level. Thus it is possible, under the proposed rule change, that if the Surrender Quantity is greater than the number of contracts remaining for the Initiating Participant at the last level of allocation, the Initiating Participant will receive no contracts at that level. Telephone conversation between Michael Burbach, Vice President of Legal Affairs, BOX, and Ira Brandriss, Special Counsel and Nicholas Shwayri, Attorney-Advisor, Division of Trading and Markets, Commission, January 19, 2011.

<sup>8</sup> See, generally *id.*, paragraph (f).

<sup>9</sup> See *id.*, paragraph (e).

<sup>5</sup> 15 U.S.C. 78k-1.

<sup>6</sup> 17 CFR 242.608.

<sup>7</sup> 15 U.S.C. 78k-1.

<sup>8</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>9</sup> 17 CFR 242.608.

<sup>10</sup> 17 CFR 200.30-3(a)(29).