

October 18, 2022

VIA ELECTRONIC TRANSMISSION

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-7010

Re: 24X National Exchange LLC –Response to Order Instituting Proceedings to Determine Whether to Grant or Deny an Application for Registration as a National Securities Exchange (Release No. 34–95651; File No. 10–239)

Dear Ms. Countryman:

On behalf of 24X National Exchange LLC (“**24X**” or the “**Exchange**”), we hereby submit 24X’s response to the Securities and Exchange Commission’s (the “**Commission’s**”) Order Instituting Proceedings to Determine Whether to Grant or Deny an Application for Registration as a National Securities Exchange under Section 6 of the Securities Exchange Act of 1934, as amended (“**Exchange Act**”).¹

I. Background

As background, 24X filed its Form 1 application with the Commission on March 24, 2022, and the Commission published the application for comment in the Federal Register on June 6, 2022.² The Commission received several comments on the application³ and subsequently published the Order in the Federal Register on September 7, 2022. In the Order, the Commission identified several portions of the application for consideration and solicited comments, including several items relating to corporate governance, 24X’s after-hours trading sessions, the sufficiency of exhibits, and the location of 24X’s trading platform. We believe that our responses below adequately address the issues raised by the Commission.

¹ See Securities Exchange Act Release No. 34-95651 (Sept. 1, 2022), 87 Fed. Reg. 54736 (the “**Order**”).

² See Securities Exchange Act Release No. 34-95007 (May 31, 2022), 87 Fed. Reg. 34333.

³ The public comment file for 24X’s Form 1 application (File No. 10–239) is available on the Commission’s website at <https://www.sec.gov/comments/10-239/10-239.htm>.

II. Corporate Governance

A. Composition of the 24X Board

The Order provides that the Commission is considering whether the overall composition of 24X's board of directors (the "**24X Board**"), including the specific categories of directors of 24X (each, a "**Director**," and collectively, the "**Directors**"), would enable 24X to be so organized and have the capacity to carry out the purposes of the Exchange Act consistent with Section 6(b)(1) of the Exchange Act.^{4,5} The Commission also noted that there are specific categories of Directors not defined in the 24X Limited Liability Company Agreement (the "**24X LLC Agreement**").⁶ In addition, the Commission is considering whether the 24X Board composition fulfills the statutory requirement that one or more directors on the 24X Board is representative of issuers and investors and not associated with a member of the Exchange, broker or dealer.⁷ Finally, the Commission is considering whether the Member Representative Director nomination process should be described in the 24X LLC Agreement.⁸

24X intends to amend the 24X LLC Agreement to define each category of Director and clarify that the 24X Board will consist of the following:

- one Director who is the Chief Executive Officer of the Exchange, who will be considered an "Industry Director"⁹;

⁴ Section 6(b)(1) of the Exchange Act provides, among other things, that a national securities exchange must be organized and have the capacity to carry out the purposes of the Exchange Act and to enforce compliance by its members and persons associated with its members with provisions of the Exchange Act, the Commission's rules and regulations thereunder, and the rules of the national securities exchange.

⁵ Order at 54738.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 54738-39.

⁹ 24X intends to define an "Industry Director" as a Director who (i) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer, (ii) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity, (iii) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer, (iv) provides professional services to brokers or dealers, and such services constitute twenty percent or more of the professional revenues received by the Director or twenty percent or more of the gross revenues received by the Director's firm or partnership, (v) provides professional services to a director, officer, or employee of a broker,

- at minimum three “Independent Directors”¹⁰;
- the number of “Non-Industry Directors”¹¹ shall equal or exceed the sum of the number of Industry Directors and “Member Representative Directors”¹²; and
- the number of Membership Representative Directors which shall be at least 20% of the Board, provided that if 20% of the Directors then serving on the Board is not a whole number, such minimum number of Member Representative Directors shall be rounded up to the next whole number.

In addition, 24X intends to amend the 24X LLC Agreement to include the Member Representative Director nomination process that presently is specified in the 24X Member Nominating Committee Charter (Exhibit J).

We believe that these amendments will adequately address the issues raised by the Commission relating to the composition of the 24X Board.

B. Voting and Ownership Concentration Limits

As background, 24X is wholly owned by its direct parent company, 24X US Holdings LLC (“**US Holdings**”), which in turn is wholly owned by 24X Bermuda Holdings LLC (“**Bermuda Holdings**”).

dealer, or corporation that owns fifty percent or more of the voting stock of a broker or dealer, and such services relate to the director’s, officer’s, or employee’s professional capacity and constitute twenty percent or more of the professional revenues received by the Director or member or twenty percent or more of the gross revenues received by the Director’s or member’s firm or partnership, or (vi) has a consulting or employment relationship with or provides professional services to the Exchange or any affiliate thereof or has had any such relationship or provided any such services at any time within the prior three years.

¹⁰ The 24X LLC Agreement presently defines “Independent Director” as a Director who has no material relationship with the Exchange or any affiliate of the Exchange, or any Exchange Member or any affiliate of any such Exchange Member; provided, however, that an individual who otherwise qualifies as an Independent Director shall not be disqualified from serving in such capacity solely because such Director is a Director of the Exchange or an affiliate thereof.

¹¹ 24X intends to define “Non-Industry Director” as a Director who is (i) an Independent Director, or (ii) any other individual who would not be an Industry Director.

¹² The 24X LLC Agreement presently defines “Member Representative Director” as a Director who has been elected or appointed to the Board from time to time in accordance with the 24X LLC Agreement after having been nominated by the Member Nominating Committee. A Member Representative Director must be an officer, director, employee, or agent of an Exchange Member.

The Order identifies for consideration various ownership and voting concentration limits, including (i) whether the corporate documents of US Holdings and Bermuda Holdings should contain a 40% limitation on ultimate ownership of 24X that is applicable to any person,¹³ (ii) whether the corporate documents of US Holdings and Bermuda Holdings should contain a 20% limitation on the ultimate voting interest in 24X that is applicable to broker-dealer members of the Exchange,¹⁴ and (iii) whether the corporate documents of US Holdings and Bermuda Holdings should contain a 20% limitation on the voting power of 24X that is applicable to any person.¹⁵

24X intends to amend the operating agreements of US Holdings and Bermuda Holdings to adopt the voting and ownership concentration limits set forth above. More specifically, each operating agreement will implement the following restrictions:

- no person, either alone or together with its related persons, may own, directly or indirectly, of record or beneficially, an interest in the respective holding company exceeding 40%;
- no member of 24X, either alone or together with its related persons, may own, directly or indirectly, of record or beneficially, an interest in the respective holding company exceeding 20%; and
- no person, either alone or together with its related persons, at any time may, directly, indirectly or pursuant to any voting trust, agreement, plan or other arrangement, vote or cause the voting or give any consent or proxy representing more than 20% of the voting power of the then issued and outstanding interests in the respective holding company, nor may any person, either alone or together with its related persons, enter into any agreement, plan or other arrangement with any other person, either alone or together with its related persons, under circumstances that would result in the interests in the respective holding company that are subject to such agreement, plan or other arrangement not being voted on any matter or matters or any proxy relating thereto being withheld, where the effect of such agreement, plan or other arrangement would be to enable any person, either alone or together with its related persons, to vote, possess the right to vote or cause the voting of interests in the respective holding company which would represent more than 20% of such voting power.

As a practical matter, the foregoing restrictions will not apply to Bermuda Holdings' ownership and control of US Holdings. In addition, among other things, the foregoing restrictions will apply

¹³ Order at 54739.

¹⁴ *Id.* at 54739-40.

¹⁵ *Id.* at 54740.

only for so long as US Holdings and/or Bermuda Holdings, as applicable, directly or indirectly control 24X.¹⁶

We believe that these amendments will adequately address the issues raised by the Commission relating to voting and ownership of 24X.

C. Regulatory Independence and Oversight of 24X

In the Order, the Commission noted that the activities and actions of US Holdings and Bermuda Holdings with respect to the operation of 24X must be consistent with, and must not interfere with, 24X's regulatory obligations as a national securities exchange.¹⁷ As such, the Order identifies for consideration whether the corporate documents of US Holdings and Bermuda Holdings contain provisions that are designed to help maintain the independence of the regulatory function of 24X and oversight of 24X by the Commission.¹⁸ In particular, the Order identifies various items for consideration on whether to include in the operating agreements of US Holdings and Bermuda Holdings, including the following: (i) giving due regard to a national securities exchange's self-regulatory obligations¹⁹; (ii) compliance with federal securities laws²⁰; (iii) submission of jurisdiction²¹; (iv) books and records of a national securities exchange reflecting confidential information²²; (v) books and records of the holding companies²³; (vi) consent to provisions by

¹⁶ The operating agreements of US Holdings and Bermuda Holdings additionally will provide that no member will be deemed to be in breach of the restrictions set forth above if the member is in violation of the limitations as a result of an action by any other person (other than such member or such member's affiliates) (including, for the avoidance of doubt, any transfer or surrender of interests by another member or a redemption of interests by the respective holding company). In addition, the operating agreements of US Holdings and Bermuda Holdings will provide that the restrictions set forth above will not apply to any class of interests that does not have the right by its terms to nominate any directors or on other matters that may require the approval of the holders of voting interests, if any (other than matters affecting the rights, preferences or privileges of said class of interests). The operating agreements of US Holdings and Bermuda Holdings also will set forth various waiver, notice and approval provisions relating to the foregoing.

¹⁷ Order at 54739-40.

¹⁸ *Id.* at 54740.

¹⁹ *Id.* at 54741.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

holding company officers, directors, employees and agents²⁴; and (vii) changes to holding company constituting documents to be filed with the Commission.²⁵

24X intends to amend the operating agreements of US Holdings and Bermuda Holdings to adopt provisions addressing each of the items listed above. Specifically:

- Giving Due Regard to a National Securities Exchange's Self-Regulatory Obligations. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that the holding companies will ensure that the directors, the officers, the employees and the agents of the respective holding company give due regard to the preservation of the independence of the self-regulatory function of 24X, and to the obligations of 24X to investors and the general public and will not take any actions which would interfere with the effectuation of any decisions by the board of 24X relating to its regulatory functions (including disciplinary matters) or which would interfere with the ability of 24X to carry out its responsibilities under the Exchange Act.
- Compliance with Federal Securities Laws. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that the holding companies will comply with the federal securities laws and the rules and regulations promulgated thereunder and will cooperate with the Commission and 24X, pursuant to and to the extent of their respective regulatory authority. The directors, officers, employees and agents of the respective holding company, by virtue of their acceptance of their respective positions, agree to comply, and will comply, with the federal securities laws and the rules and regulations promulgated thereunder and will be deemed to agree to cooperate with the Commission and 24X in respect of the Commission's oversight responsibilities regarding 24X and the self-regulatory functions and responsibilities of 24X, and the respective holding company will take reasonable steps necessary to cause its directors, officers, employees and agents to so cooperate.
- Submission of Jurisdiction. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that the holding companies and their directors, officers, employees and agents, by virtue of their acceptance of such position, will be deemed to irrevocably submit to the jurisdiction of the United States federal courts, the Commission, and 24X, for the purposes of any suit, action or proceeding pursuant to the United States federal securities laws, and the rules or regulations thereunder, arising out of, or relating to, the activities of 24X, and by virtue of their acceptance of any such position, will be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in

²⁴ *Id.*

²⁵ *Id.*

any such suit, action or proceeding, any claims that it or they are not personally subject to the jurisdiction of the United States federal courts, the Commission or 24X, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter of that suit, action or proceeding may not be enforced in or by such courts or agency. US Holdings and Bermuda Holdings and their directors, officers, employees and agents also agree that they will maintain an agent, in the United States, for the service of process of a claim arising out of, or relating to, the activities of 24X.

- Books and Records of a National Securities Exchange Reflecting Confidential Information. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that all books and records of 24X reflecting confidential information pertaining to the self-regulatory function of 24X (including but not limited to disciplinary matters, trading data, trading practices and audit information) that will come into the possession of US Holdings and/or Bermuda Holdings, and the information contained in those books and records, will be retained in confidence by the respective holding company, its personnel, directors, officers, employees and agents, and will not be used for any non-regulatory purposes or made available to any person. Notwithstanding the foregoing sentence, US Holdings and Bermuda Holdings will not be limited or impeded from disclosing such confidential information to the Commission and 24X, as appropriate.
- Books and Records of the Holding Companies. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that the holding companies' corporate, financial and similar records, reports and documents, including all financial statements, books and records and minutes of proceedings relating to the operation or administration of 24X will be maintained in the United States and will be subject at all times to inspection and copying by the Commission and 24X. Likewise, to the extent the respective holding company's corporate, financial and similar records, reports and documents, including all financial statements, books and records and minutes of proceedings, are related to the activities of 24X, such corporate, financial and similar records, reports and documents, including all financial statements, books and records and minutes of proceedings will be deemed to be the corporate, financial and similar records, reports and documents, including all financial statements, books and records and minutes of proceedings of 24X for the purposes of the Exchange Act.
- Consent to Provisions by Holding Company Officers, Directors, Employees and Agents. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that the holding companies will take reasonable steps necessary to cause each officer, director, employee and agent of the respective holding company, prior to accepting a

position, to consent in writing to the applicability of the provisions contained in the applicable operating agreement with respect to their activities related to 24X.

- Changes to Holding Company Constituting Documents to be filed with the Commission. The amended operating agreements of US Holdings and Bermuda Holdings will clarify that no amendment to such operating agreements will be effective until approved by the governing board of 24X and, if such change is required to be filed with the Commission pursuant to Section 19 of the Exchange Act and the rules and regulations promulgated thereunder, such change shall not be effective until filed with and effective by operation of law, or filed with and approved by the Commission, as the case may be.

We believe that these amendments will adequately address the issues raised by the Commission relating to the regulatory independence and oversight of 24X.

III. 24X Trading Platform

A. 24X Market Session

As background, 24X intends to operate 24 hours a day for 365 days a year. In contrast, no other national securities exchange allows for trading 24 hours a day.

The 24X trading session that occurs during the hours in which no other national securities exchange is open—8:00 pm to 4:00 am ET on each U.S. business day and any time on a weekend or holiday—is referred to as the “**24X Market Session.**”

As provided in the Order, the Commission is considering various aspects of the 24X Market Session, each of which is addressed in detail below.

B. Securities Information Processor (“SIP”) Reporting during the 24X Market Session

1. Section 6(b)(5) of the Exchange Act; Rule 601 under Regulation NMS

The Order provides that the SIPs currently do not operate during the hours the 24X Market Session is proposed to occur and therefore quotation and last sale information, including the calculation of a the national best bid or offer (“**NBBO**”), would not be published by a SIP during the 24X Market

Session.²⁶ The Commission is evaluating whether the absence of consolidated market information during the 24X Market Session is consistent with Section 6(b)(5) of the Exchange Act.^{27,28}

As noted in 24X's comment letter dated September 1, 2022 ("**24X Letter**"),²⁹ 24X will become a party to all applicable transaction reporting plans, including the CTA/CQ and UTP Plans, consistent with Rule 601 under Regulation NMS. 24X expects to report to the SIPs during all hours in which the SIPs are open. 24X understands that, at this time, no other national securities exchange operates during the hours constituting the 24X Market Session, and as a result, the SIPs presently are closed during those hours. As such, 24X expects to report the trade information that occurs while the SIPs are closed as soon as the SIPs reopen, except as provided in subsection III.B.2 below,³⁰ consistent with existing reporting obligations and market practices for off-exchange trading that occurs during hours in which the relevant SIP is closed. For example, trades that occur on Blue Ocean ATS, LLC, a Commission-registered alternative trading system, while the NYSE Trade Reporting Facility is closed are reported when the NYSE Trade Reporting Facility reopens, which in turn reports the trades to the relevant SIP.³¹ Similarly, the Financial Industry Regulatory Authority ("**FINRA**") requires member broker-dealers that trade during hours in which the relevant FINRA reporting facility is closed to report such trades within 15 minutes of the open of the relevant FINRA reporting facility, which in turn reports to the relevant SIP.³² 24X believes that these long-established market practices that have proven to be effective in protecting market integrity and in providing transparency to market participants. Likewise, 24X believes that its proposed approach to report as soon as the relevant SIP reopens would be consistent with these long-established market practices.

²⁶ Order at 54742-43.

²⁷ Section 6(b)(5) of the Exchange Act provides that, in relevant part, the rules of a national securities exchange must be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the exchange."

²⁸ Order at 54743.

²⁹ The 24X Letter is available on the Commission's website at <https://www.sec.gov/comments/10-239/10239-20138031-308283.pdf>.

³⁰ As noted in subsection III.B.2 below, 24X will report in real time trade information for each "subject security" pursuant to 24X's obligations under Rule 602 under Regulation NMS.

³¹ See Blue Ocean ATS, LLC Rule 3.1.

³² See, e.g., FINRA Trade Reporting Frequently Asked Questions, available on FINRA's website at <https://www.finra.org/filing-reporting/market-transparency-reporting/trade-reporting-faq>.

Separately and importantly, 24X understands the critical importance of making available to the marketplace quotation and last sale information, and as such, 24X intends to offer multiple data feeds that will be available to members to distribute to their customers during all times, including during the 24X Market Session. These data feeds will include the following:

- depth of book and last sale feed;
- top of book quote and last sale feed;
- last sale feed;
- midpoint reference; and
- retail market maker interest.

24X believes that the availability of these data feeds *in lieu* of the SIP publishing the data during the 24X Market Session would be consistent with Section 6(b)(5) of the Exchange Act. More specifically, the availability of 24X's market data feeds would help foster a free and open market and protect investors and the public interest by providing the critical marketplace quotation and last sale information that would otherwise be disseminated by the relevant SIP.

2. Rule 602 under Regulation NMS

In addition to the procedures described in subsection III.B.1 above, 24X will adopt additional procedures to address its obligations pursuant to Rule 602 under Regulation NMS. In particular, 24X intends to establish and maintain procedures and mechanisms for collecting bids, offers, quotation sizes, and aggregate quotation sizes from responsible brokers or dealers who are members of 24X, process such bids, offers, and sizes, and make such bids, offers, and sizes available to the relevant SIP for each "subject security"³³ admitted to unlisted trading privileges and transmitted on 24X, regardless of time of transmission on 24X. In other words, 24X will report to the relevant SIP in real time the trade information required under Rule 602 for each subject security at any time, including during the 24X Market Session, irrespective of whether the relevant SIP will publish such information in real time.

As noted in subsection III.B.1 above, 24X will become a party to all applicable transaction reporting plans, including the CTA/CQ and UTP Plans, and as a party to these transaction reporting

³³ For these purposes Rule 600(b)(90) defines "subject security," with respect to a national securities exchange, as "(A) [a]ny exchange-traded security other than a security for which the executed volume of such exchange, during the most recent calendar quarter, comprised one percent or less of the aggregate trading volume for such security as reported pursuant to an effective transaction reporting plan or effective national market system plan; and (B) [a]ny other NMS security for which such exchange has in effect an election, pursuant to § 242.602(a)(5)(i), to collect, process, and make available to a vendor bids, offers, quotation sizes, and aggregate quotation sizes communicated on such exchange."

plans, 24X will be well positioned to help advocate for longer hours of operation for the SIPs. However, notwithstanding the SIPs' hours of operation, given that 24X will be the only national securities exchange open during the 24X Market Session, 24X believes that transparency would not be meaningfully enhanced, and the goals of the national market system would not be meaningfully furthered, by requiring the SIP to report trades executed on one (and only one) national securities exchange.

C. Reference Prices and Price Bands

In the Order, the Commission notes that while 24X would participate in the Plan to Address Extraordinary Market Volatility (“**LULD Plan**”) during the “**Core Market Session**” (*i.e.*, 9:30 am to 4:00 pm ET), the LULD Plan currently is not effective during the times that 24X proposes to operate the 24X Market Session.³⁴

Consequently, 24X intends to implement price bands during the 24X Market Session (the “**Price Bands**”) with a reference price (the “**Reference Price**”) determined in accordance with Rule 11.14(c)(3) and Rule 11.15(f). More specifically, as described in the 24X National Securities Exchange User Manual (Exhibit E-1):

The first Reference Price for the 24X Market Session is either the last sale prior to 8 p.m. or the primary market's closing price or the primary market's previous day's closing price/last sale when opening on a quote. The specified price bands are set at a percentage level above and below the average reference price of a security over the preceding five-minute period. If no eligible trades have occurred in the prior five minutes, the previous Reference Price remains in effect. The Reference Price is updated every 30 seconds only if a new Reference price would be least 1% away from the current Reference Price.

The Price Bands are calculated by multiplying the current Reference Price by the applicable Percentage Parameter and then adding or subtracting that value from the Reference Price and rounded to the nearest penny.

The recommended percentage parameter is calculated using the greater of numerical guidelines for clearly erroneous executions or a specified value established by the Exchange.

Price Band = (Reference Price) +/- ((Reference Price) x (Percentage Parameter))

³⁴ Order at 54742.

In addition, the Order notes that one commenter expressed concern over the effectiveness of the Price Bands, especially during periods of extreme market volatility or material newsworthy events.³⁵

We believe that the Price Bands and related Reference Price calculations during the 24X Market Session as set forth above will adequately mitigate extreme market volatility consistent with practices presently in effect at other national securities exchanges. In particular, 24X intends to utilize the LULD Plan during the Core Market Session, consistent with other national securities exchanges,³⁶ and utilize other methods, including Price Bands and related Reference Price calculations, that are consistent with the methods adopted by other national securities exchanges outside of core trading hours.³⁷

D. Market Surveillance

The Order provides that commenters requested a further description on how 24X will conduct market surveillance throughout the course of its trading sessions, including during the 24X Market Session.³⁸

As noted in the 24X Letter, 24X intends to enter into a regulatory services agreement (“**RSA**”) with FINRA, under which FINRA will perform certain regulatory functions as a regulatory services provider on 24X’s behalf. 24X expects that such services will include performance of cross-market surveillance and market-specific surveillance throughout the course of 24X’s trading sessions (including during the 24X Market Session), as well as investigatory, disciplinary and hearing services.

In addition, 24X will conduct certain real-time surveillance using in-house staff as well as third-party software throughout the course of 24X’s trading sessions (including during the 24X Market Session). Specifically, 24X compliance staff will monitor 24X’s trading sessions on a daily basis using real-time surveillance screens and third-party automated trade surveillance software to detect potential market anomalies or trade practice violations. For example, the automated trade surveillance software may provide an alert upon the occurrence of certain possible disruptive trading events or potential trade practice violations. 24X compliance staff will be notified immediately of any such alert. 24X compliance staff will determine at such time if such activity warrants appropriate escalation and/or intervention.

³⁵ Order at 54743.

³⁶ The Order also notes the lack of market-wide circuit breakers during after-hours trading. Order at 54743 n.133. 24X believes that the lack of market-wide circuit breakers during the 24X Market Session is consistent with the approach taken by other national securities exchanges outside of core trading hours.

³⁷ See, e.g., Cboe BZX Rule 11.17; MEMX Rule 11.15.

³⁸ *Id.* at 54744.

Separately, 24X will enter into a bilateral Rule 17d-2 agreement covering common members of 24X and FINRA. This agreement will allocate to FINRA regulatory responsibility, with respect to common members, for specified regulatory and enforcement matters arising out of specified common rules and specified provisions of the Exchange Act and the rules and regulations thereunder. In addition, 24X will join the applicable multilateral Rule 17d-2 plans, including the multi-party Rule 17d-2 plan for the allocation of regulatory responsibilities with respect to certain Regulation NMS and Consolidated Audit Trail Rules and the multi-party Rule 17d-2 plan for the surveillance, investigation, and enforcement of common insider trading rules.

E. Orderly Dissemination of Company Disclosures

The Order provides that a commenter acknowledges that companies may choose to release material information outside of the core trading hours on the primary listing exchange and requests further information on how 24X will handle the disclosure of such information.³⁹

As noted in the 24X Letter, 24X intends to revise Rule 11.15 to clarify that if trading in a security is paused or otherwise halted by the primary listing exchange, then 24X will pause trading in the same security on the Exchange. Given that many company disclosures occur during after-hours trading (4:00 pm to 8:00 pm ET) on the primary listing exchange, this mirroring approach will address any trading pauses implemented by the primary listing exchange at the time of the company disclosures.

In addition, 24X Rule 11.15 sets forth volatility bands to further mitigate any disruptive volatility that may result from corporate disclosures that occur without a trading pause or halt on the primary listing exchange.

F. Elimination of Trading Pauses

As noted in the Order, a commenter raised questions on the handling of various matters that typically occur during trading pauses, including processing corporate actions and conducting exchange and industry tests.⁴⁰ Each of these types of pauses is addressed below.

1. Corporate Actions

As noted in the 24X Letter, 24X intends to revise Rule 11.1 to clarify that material corporate actions (*i.e.*, corporate actions that may affect a stock price, stock additions and subtractions, and similar actions) will be reflected on the Exchange upon news receipt from the primary listing exchange or at 8:00 pm upon receipt from the vendor “Symbol Master,” whichever occurs sooner.

³⁹ Order at 54744.

⁴⁰ *Id.*

In addition, 24X will provide a corporate action data link on 24X's website that will provide the calculations and underlying explanations for each action taken..

2. Exchange and Industry Tests

24X intends to revise Rule 11.1 to clarify that the Exchange will provide for pauses in trading on an as-needed basis to allow for participation in Exchange and industry tests such as general customer testing, disaster recovery tests, industry-wide business continuity tests and other system tests.

G. Clearance and Settlement

The Order provides that the Commission is considering how the relevant clearing agencies for equities, the National Securities Clearing Corporation ("NSCC") and the Depository Trust Company, would address any potential credit, market, and liquidity risks associated with trades submitted by the Exchange when the markets, banks, Fedwire, and any providers of settlement services are closed for business.⁴¹

As noted in the 24X Letter, 24X intends to revise Rule 11.12 to clarify that trades executed on the Exchange will be settled in accordance with the CNS System—a continuous net settlement system operated by NSCC. Trades executed during hours in which the CNS System is open will be automatically processed for clearing and settlement. In contrast, trades executed during hours in which the CNS System is closed will be processed for clearing and settlement as soon as NSCC reopens the CNS System. These after-hours trades will be processed for clearing and settlement in the same manner in which scores of after-hours off-exchange trades are processed presently by NSCC.

In any event, trades executed on 24X will be cleared and settled no later than the T+2 settlement cycle prescribed by Commission rules.

H. Outbound Router Relationship

As noted in the Order, a commenter requested further information on the outbound router relationship—especially in light of the 24X Market Session when other exchanges are closed.⁴² Likewise, the Order provides that the Commission is evaluating whether 24X's rule pertaining to risk management controls and supervisory procedures of its outbound router, Rule 11.10(g), is sufficient during the 24X Market Session or whether additional mechanisms are needed.⁴³

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 54743-44.

As noted in the 24X Letter, 24X has formally engaged one broker, Instinet, to act as the outbound router for the Exchange. Likewise, 24X is in the process of engaging a second outbound router to serve in a similar capacity.

With respect to trading during the 24X Market Session, 24X does not intend to route trades to any other national securities exchange during hours in which all other national securities exchanges are closed. As such, 24X believes that existing Rule 11.10(g), which is consistent with comparable rules adopted by other national securities exchanges,⁴⁴ is sufficient to address its outbound router(s)' risk management controls and supervisory procedures.

However, if there are Commission-regulated entities operating trading platforms with sufficient liquidity during the 24X Market Session, 24X will instruct its outbound routers to access such trading platforms, and 24X will amend Rule 11.10(g) to clarify that the outbound routing and related risk management controls and supervisory procedures apply to routing to such trading platforms.

I. Investor Disclosures

As set forth in the Order, the Commission is considering whether 24X's proposed investor disclosures sufficiently address risks associated with continuous trading during the 24X Market Session.⁴⁵ Specifically, the Commission is evaluating whether these disclosures, currently used for exchange pre-market and post-market trading sessions, sufficiently inform investors of the greater potential risks associated with the significantly expanded after-hours trading that 24X proposes for its 24X Market Session.⁴⁶

24X intends to amend Rule 3.21 to further clarify the risks associated with trading during the 24X Market Session during hours in which no other national securities exchange presently allows for trading. Among other things, amended Rule 3.21 will describe in greater detail risks and related aspects associated with the following: (i) trading during hours in which the SIP does not operate; (ii) trading during hours in which the LULD Plan is not effective; (iii) the effectiveness of the Price Bands; (iv) trading during hours in which listed companies release material information; (v) the timing of corporate actions; and (vi) trading during hours in which the relevant clearing agency as well as other markets, banks, Fedwire, and any providers of settlement services are closed for business.

⁴⁴ See, e.g., Cboe Rule 5.36(f); MEMX Rule 11.11(g).

⁴⁵ Order at 54743.

⁴⁶ *Id.*

J. Fractional Shares

The Order provides that the Commission is considering whether 24X's proposal to allow for trading in fractional shares would be consistent with Section 6(b)(5) of the Exchange Act.⁴⁷

As noted in the 24X Letter, we respectfully have determined to withdraw the portion of the application pertaining to permitting the trading in fractional shares on 24X with the intention to re-address these issues at a later date. We also believe that 24X, as a national securities exchange, would be well positioned to help develop industry plans for more effective clearance and settlement of fractional shares.

IV. Sufficiency of Exhibits

The Order describes 24X's Exhibit I and certain portions of Exhibit D and notes that the Commission is considering whether these exhibits demonstrate that, among other things, 24X has and would continue to have adequate funding to be able to meet its responsibilities under the Exchange Act.⁴⁸

More specifically, as described in Exhibit I, 24X intends to rely on its immediate parent, US Holdings, to contribute \$5,000,000 to the Exchange and to provide on an ongoing basis adequate funding for the Exchange's operations, including the regulation of the Exchange. Separately, as demonstrated in the balance sheet provided as part of Exhibit D, US Holdings has minimal assets⁴⁹ and would require a contribution from Bermuda Holdings in order to contribute funding to the Exchange. As such, 24X intends to amend Exhibit I to clarify that the contribution of \$5 million will come indirectly from Bermuda Holdings through US Holdings in the form of an equity contribution. In addition, 24X intends to amend the agreement referenced in Exhibit I to include Bermuda Holdings as an additional obligor of cash contributions on an as-needed basis.

We believe that these amendments will adequately address the issues raised by the Commission relating to voting and ownership of 24X.

⁴⁷ *Id.* at 54744-45.

⁴⁸ *Id.* at 54745-46.

⁴⁹ 24X intends to provide an amended balance sheet for US Holdings that demonstrates total assets of \$0 as of December 31, 2021. The amended balance sheet also demonstrates a liability of \$439 as a recorded expense owed to Bermuda Holdings for an expense paid on behalf of US Holdings during the formation process in 2021. 24X also intends to provide a balance sheet for US Holdings as of September 20, 2022 that shows that the \$439 recorded expense has been offset by recorded income to US Holdings from Bermuda Holdings.

V. Location of Exchange Trading Platform

The Order identifies for consideration the location of 24X's "mirrored" primary platform in London (LD4).⁵⁰

As noted in the 24X Letter, 24X had determined to not utilize the data center located in London (LD4) in connection with the operations of the national securities exchange. Instead, the second data center will be located in Chicago (CH4) for purposes of disaster recovery. 24X will replace all references in the Form 1 application to LD4 with CH4 and clarify that the CH4 data center will be utilized purposes of disaster recovery rather than as a "mirrored" primary platform.

VI. Conclusion

We believe that these amendments will adequately address the issues raised by the Commission relating to the regulatory independence and oversight of 24X.

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Should you have any questions regarding this response, please do not hesitate to contact me. If the Commission would like to meet in person or set up a call to discuss any of these issues, then we will happily do so.

Sincerely,

/s/

James M. Brady

cc: Dmitri Galinov, 24X National Exchange LLC

⁵⁰ *Id.* at 54746.