

VIA EMAIL (rule-comments@sec.gov)

May 30, 2024

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. 10-242
24X National Exchange LLC: Notice of Filing of Application for Registration as a National Securities Exchange

Dear Ms. Countryman:

24X National Exchange LLC (“24X”) filed an application with the Securities and Exchange Commission (“Commission” or “SEC”) to register as a national securities exchange. On February 27, 2024, the Commission published the 24X Form 1 for public comment.¹ Commenters have submitted four comment letters in response to the 24X Form 1.² Two of the commenters are fully supportive of 24X’s exchange application, one raises issues regarding retail investor participation in the 24X Market Session, and the fourth supports competition and innovation but raises certain issues related to the application. As discussed below, 24X submits this letter to respond to the topics raised in the comment letters, and urges the Commission to approve its Form 1 expeditiously.

1. Strong Support for 24X Exchange Application

24X has received strong support for its application to register as a national securities exchange from the commenters on its Form 1:

- Professor James Angel of Georgetown University supports 24X’s exchange application, and urges the SEC to approve the application without further delay.³ In his comment letter, Professor Angel argues that (1) 24-hour trading already exists on ATSS, and it would be better to have such trading on a regulated exchange; (2) 24-hour trading of equities would facilitate the trading of futures, which already occurs on a 24-hour basis; (3) 24-hour trading of equities would reduce risk for market participants; (4) 24-hour trading would improve price discovery during regular trading hours; and (5) 24X’s

¹ Securities Exchange Act Rel. No. 99614 (Feb. 27, 2014), 89 Fed. Reg. 15621 (Mar. 4, 2024) (“24X Exchange Application Notice”).

² See Letters to Vanessa Countryman, Secretary, SEC from James. J. Angel, Associate Professor of Finance, McDonough School of Business, Georgetown University (Apr. 5, 2024) (“Angel Letter”); Andrew Glover, University of Washington, and Ed DeHann, Stanford University (Apr. 22, 2024) (“Glover & DeHann Letter”); Stan Sater, Senior Legal Counsel, Polygon.io, Inc. (Apr. 25, 2024) (“Polygon Letter”); and Eun Ah Choi, Senior Vice President, Nasdaq (Apr. 25, 2024). The comment letters submitted in response to the 24X Form 1 are available at <https://www.sec.gov/comments/10-242/10-242.htm>.

³ See Angel Letter.

proposed price bands, which are similar to Limit Up Limit Down (“LULD”) price bands, should prevent extremely erroneous trades.

- Polygon.io, Inc. (“Polygon”), a market data vendor, also supports 24X’s exchange application, and 24X’s goals of 24/7/365 trading.⁴ Polygon states in its letter that “Today, depending on your broker, you can trade outside Normal Market Hours through alternative trading systems (“ATs”) and other dark pools. Innovation shouldn’t just happen in dark pools where everyday market participants cannot gain from the transparency and interconnectedness that lit markets or national securities exchanges provide.”⁵
- Nasdaq, a registered national securities exchange, states that it “welcomes the prospect of 24X’s entry into what is already a vigorously competitive market for equity order flow and related services.”⁶

2. Consolidated Market Data

A defining feature of 24X’s exchange application is its intent to allow equities trading 23 hours a day, 7 days per week, 365 days a year.⁷ However, the operation of the current national market system plans for reporting quotation and transaction data - the Consolidated Quotation Plan (“CQ Plan”), the Consolidated Tape Association Plan (“CTA Plan”), and the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”) (collectively, the “SIPs”) – would prevent 24X from providing this key feature, as they currently limit the reporting of quoting and transaction information to more traditional, limited trading hours. In its comment letter, Nasdaq asks how 24X will address the reporting requirements for transactions and quotations during the 24X Market Session.⁸

24X is very much in favor of transparency for the quoting and trading activity in the 24X Market Session. Accordingly, 24X has been actively working with the SIPs to assist with the changes necessary to accommodate the 24X Market Session. However, to the extent that the SIPs are not ready to accommodate the 24X Market Session in time for a launch of 24X,⁹ 24X has requested temporary conditional exemptive relief with regard to the reporting of certain quoting and transaction activity during the 24X Market Session until the SIPs are ready.¹⁰ Such relief would facilitate competition by allowing a new entrant to the market to commence

⁴ See Polygon Letter.

⁵ Polygon Letter at 1.

⁶ Nasdaq Letter at 1. Nasdaq also raises issues regarding 24X’s application, particularly with regard to Nasdaq’s role as a primary listing market. 24X addresses those issues below.

⁷ 24X Exchange Application Notice at 15622.

⁸ Nasdaq Letter at 2-3.

⁹ In its comment letter, Polygon raises concerns about the potential for delays with regard to the SIPs’ implementation of changes. See Polygon Letter.

¹⁰ Letter from David Sassoon, General Counsel, 24X National Exchange LLC, to Vanessa Countryman, Secretary, SEC (May 1, 2024).

operation in a timely fashion without adversely affecting the regulatory goals of Rule 601 and 602. In that regard, to ensure transparency and the protection of investors, 24X would publish the same quotation and trade information that would be reported to the SIPs during the 24X Market Session on its website, and make it available in real time and available for no cost to investors, during the time in which any such exemption were in effect. Any such exemption would terminate once the SIPs were ready to accept 24X's data for the 24X Market Session.

3. Notice of Securities Traded in the 24X Market Session

Nasdaq also questions whether investors will have sufficient notice regarding the securities that will trade in each 24X Market Session.¹¹ 24X has set forth the process and timing for informing its Members and investors of the securities that will be eligible to trade in the 24X Market Session. Specifically, proposed 24X Rule 11.2(f) states the following:

The Exchange shall provide notice to Members as promptly as practicable prior to each 24X Market Session of any securities it is making available for trading during such 24X Market Session. The Exchange shall provide notice to Members as promptly as practicable, but no later than the close of the Core Market Session of any securities that it is making unavailable for trading during the following 24X Market Session.

Accordingly, 24X will inform the market of the securities trading in the 24X Market Session prior to the 24X Market Session, and will inform the market of securities that will not be available to trade in the 24X Market Session by the close of the Core Market Session. 24X will provide a list of the symbols available for each 24X Market Session on its website. 24X does not anticipate that there would be substantial daily changes in the symbols traded during the 24X Market Session. 24X believes that this Rule provides sufficient notice to investors regarding the securities available for trading during the 24X Market Session.

4. Listed Company Issues

a. Market Surveillance and Trading Halts

Nasdaq comments that 24X's proposal would be the first time that an exchange that utilizes unlisted trading privileges would operate outside the trading hours of the primary listing exchanges, and notes that the primary listing exchanges currently perform real-time surveillance of securities listed on their markets and implement trading halts and pauses for those securities during their hours of operation.¹² Nasdaq questions how 24X "will manage real-time surveillance throughout the course of the 24X Market Session, how the existing surveillance, trading halt and trade review infrastructure will intersect in the context of the 24X Market

¹¹ Nasdaq Letter at 3.

¹² *Id.*

Session (including how 24X will coordinate with self-regulatory organizations), and the impact such trading will have on investors, listed companies and other market participants.”¹³

As a preliminary matter, 24X expects that listed companies will continue to follow the applicable requirements of the primary listing market, including those related to disclosures of significant events. Furthermore, 24X will coordinate with the primary listing markets with regard to their regulatory roles related to their listed companies (e.g., trading halts). For example, in recognition of the primary listing market’s role, 24X proposes to pause trading in the event of a material corporate action that occurs during the 24X Market Session and only resume trading once trading resumes on the primary listing market. Proposed 24X Rule 11.15(c)(5) addresses those circumstances in which a listed company may have significant events during the 24X Market Session. Specifically, proposed 24X Rule 11.15(c)(5) would pause trading in the relevant security until trading resumes on the primary listing market. Furthermore, 24X will surveil the trading in the 24X Market Session as it does with the other 24X trading sessions.

b. Orderly Dissemination of Company Disclosures

In its comment letter, Nasdaq notes that the rules of the primary listing exchanges currently require listed companies to notify the applicable primary listing exchange prior to the release of material information that would reasonably be expected to affect the value of its securities or influence investors’ decisions, and such notification requirements allow the primary listing exchanges to assess whether to implement a temporary trading halt to allow orderly dissemination of material information.¹⁴ Accordingly, Nasdaq questions how the 24X Market Session will “affect the current expectations for listed companies to disclose, and for investors to consider, material information, the potential for uneven dissemination of material information to investors and resulting effect on trading and the timing of notification to the primary listing exchanges.”¹⁵

As discussed above, 24X proposes 24X Rule 11.15(c)(5) to address those circumstances in which a listed company may have significant events during the 24X Market Session. Specifically, proposed 24X Rule 11.15(c)(5) would pause trading in the relevant security until trading resumes on the primary listing market:

If there are any material corporate actions with respect to a particular security (i.e., corporate actions that may affect a stock price, stock additions and subtractions, and similar actions) during the 24X Market Session, the Exchange will pause trading in the security until trading resumes on the primary listing market for the security.

The term “material corporate action” would include all actions that the primary listing markets would determine to require a trading halt under their rules. As noted above, 24X will coordinate

¹³ *Id.*

¹⁴ *See* Nasdaq Letter at 3-4.

¹⁵ *Id.* at 4.

with the primary listing markets with regard to their regulatory roles related to their listed companies. Moreover, 24X expects that listed companies will continue to follow the applicable requirements of the primary listing market.

5. Regulatory Trading Halts and Pauses during 24X Market Session

Nasdaq commented that 24X “does not sufficiently explain how 24X will coordinate with primary listing exchanges and the SIP to implement regulatory trading halts and pauses during the entirety of the 24X Market Session. For example, UTP SIP testing occurs from 8:00 a.m. to 12:00 p.m. on weekends which overlaps with a portion of the 24X Market Session, and 24X has not explained how it will operate during the overlapping time.”¹⁶ Contrary to Nasdaq’s assertions, 24X’s proposed rules specifically address how industry-wide testing will be addressed during the 24X Market Session. Proposed 24X Rule 11.15(c)(3) states that “[t]he Exchange will pause trading for industry-wide testing conducted on Saturdays, and resume trading, in accordance with Rule 11.15(b). The Exchange shall announce in advance when trading will pause and when it will resume pursuant to this paragraph.” In addition, proposed 24X Rule 11.15(c)(4) addresses other types of trading pauses. It states that “[t]he Exchange may pause trading during the 24X Market Session at such other times as the Exchange may determine is necessary for technological or other purposes. The Exchange shall announce in advance when such trading will pause and when it will resume pursuant to this paragraph.” Proposed 24X Rule 11.15(c) also provides for regular trading pauses on Saturday, daily trading pauses and pauses related to corporate actions.¹⁷

6. Retail Investor Participation in 24X Market Session

In their comment letter, Professors Andrew Glover & Ed deHaan raise concerns about retail investor participation in the overnight hours due to the increased trading risk, citing to a paper of theirs to support their arguments.¹⁸ 24X disagrees with the authors’ proposal to limit or prohibit retail investor participation during expanded trading hours, as the proposal is at odds with the SEC’s traditional disclosure approach to the risks of after-hours trading.¹⁹ 24X provides enhanced disclosure in its Rules to provide investors with the information to understand the potential risks of trading in the 24X Market Session.

Retail trading in equities outside of regular market hours in the U.S. is not a new phenomenon. Indeed, retail investors have been regularly trading outside of regular market hours since 1999.²⁰ In response to those developments, the SEC stated that it “supports investor

¹⁶ Nasdaq Letter at 4.

¹⁷ Proposed 24X Rule 11.15(c)(1), (2) and (5).

¹⁸ Glover & DeHann Letter.

¹⁹ Moreover, 24X disagrees with the conclusions of the study cited in the Glover & DeHann Letter. 24X does not believe that the study supports the stated concerns about retail investor participation in the 24X Market Session, as the study fails to take into account the significant increase in retail investor participation and trading activity that has occurred since 2020. The evaluation of retail trading patterns and performance needs to account for the significant shift in retail trading behavior in recent years.

²⁰ See Part III, After Hours Trading, Special Study: Electronic Communication Networks and After-Hours Trading, Division of Market Regulation, SEC (June 2000) (<https://www.sec.gov/news/studies/ecnafter.htm#pt3i>).

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choice in trading hours provided that essential protections for investors and the markets are not compromised.”²¹ Specifically, with the increase in retail investor participation in after-hours trading, the SEC’s regulatory initiatives focused on providing adequate disclosure to retail investors regarding the potential risks of trading during those hours.²² In line with this approach, 24X proposes 24X Rule 3.21, which requires its Members to disclose to its customers the risks of trading during Extended Trading Hours. Moreover, these disclosures address additional risks posed by the 24X Market Sessions, such as, for example, the risk of trading during hours in which financial market infrastructure companies²³ are closed. 24X believes that the disclosure approach provides investors with the benefit of increased flexibility in the timing of their trades while providing appropriate protection for investors.

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We appreciate your attention to this matter. Please contact me at david@24exchange.com if you have any questions or comments.

Respectfully submitted,

/s/ David Sassoon

David Sassoon
General Counsel
24X National Exchange LLC

cc: David S. Shillman, SEC
Kelly Riley, SEC
Rebekah Liu, SEC
Andre Owens, WilmerHale
Cherie Weldon, WilmerHale

²¹ *Id.*

²² *Id.* See also Extended Hours Trading: Investor Bulletin (June 6, 2022) (disclosing extended hours trading risks) (<https://www.sec.gov/oiea/investor-alerts-and-bulletins/extended-hours-trading-investor-bulletin>).

²³ Examples of these market infrastructure companies include the relevant clearing agency as well as other markets, banks, Fedwire Funds Service, and certain other providers of settlement services. Proposed 24X Rule 3.21(g).