

Richard Montone

VIA E-MAIL SUBMISSION

June 26, 2024

Ms. Vanessa A. Countryman

Secretary of the Securities and Exchange Commission

Three Lafayette Centre

100 F Street, NE,

Washington, DC 20549-1090.

Re: 24X National Exchange LLC Notice of Filing of Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934 (Securities Exchange Act Release No. 34-99614; File No. 10-242).

Dear Ms. Countryman,

The author of this Comment Letter is an upper-level JD/MBA student at the Hofstra University Maurice A. Deane School of Law and the Frank G. Zarb School of Business.¹

The author greatly appreciates the opportunity and window that the SEC has re-opened for citizens to be able to comment on proposed rulemaking.

The purpose of this Comment Letter is to address the pros and cons of a 23-hour national exchange, followed by specific comments made on compliance with the Act, and finally ending with certain issues identified by the author that should be made clearer in the proposal.

The application in this matter is the 24X National Exchange LLC (“24X”) filing to have an open platform for trading that extends passed the normal 9:30 am to 4 pm core trading hours that have long been a mainstay for markets. 24X is a recently formed LLC that’s stated mission is to “change the dynamic for market participants so they can increase profitability through highly competitive fees and gain access to a multi-asset offering through a single brokerage interface.”²

¹ The author of this Comment Letter previously studied at The Pennsylvania State University majoring in both Political Science and English earning honors degrees from The Schreyer’s Honors College where he took courses such as Macroeconomics and worked voluntarily as a research assistant for a Political Science professor researching judicial matters. The author has now immersed himself in financial and securities regulation at Hofstra University taking courses such as Accounting and Financial Reporting, Marketing Analysis and Behavior, Business Organizations, Managerial Finance, Operations and Supply Chain Management, Corporate Compliance and Ethics, Banking Law, Bankruptcy, Administrative Law, and most pertinent to this matter Securities Regulation which is taught by a former 10-year regulator. The author has experience researching and writing about SEC rulemaking. Most recently, the author wrote a research paper on Regulation Crowdfunding and ways in which the SEC could make it more appealing to the non-accredited investor. All views expressed herein are purely personal.

² <https://24exchange.com/>

Their proposal is to become a national securities exchange under Section 6 of the Act.³ The exchange itself would have no physical trading floor, operate 23 hours a day for 7 days a week, including certain holidays, and would be subject to specific trading halts specified in the proposal.

This filing is a proposal that the author supports after certain modifications are added to make the new exchange more transparent. It is a well thought out proposal that evolves our markets into the modern day.

I. Background: Democratizing Markets

The 2008 financial crisis saw a sudden decline in individual investors engaging in markets that continued throughout the 2010s. As of 2023, that trend has reversed, as more than 8 in 10 households making \$75,000 or more own stock.⁴ This can be attributed to factors such as the markets recovering and increased accessibility to trading. As of June 2024, the major exchanges routinely close at record highs. A proposal such as the one being considered in this matter has been needed for some time to give individual investors greater accessibility to markets.

Long gone are the days of investors amassing on the floor of the New York Stock Exchange when trading can now simply be done through a few taps on an investor's phone or computer. Access to our stock markets at all times of the day is a major leap in the way the SEC would be able to help democratize the markets, which has long been its mission. The author believes that 24X's proposal should be granted after certain disclosures are made clearer. After such modifications are made, they should be allowed to begin operating as an everyday exchange with oversight from the Commission.

After-hours trading and overnight trading have been established in the markets for some time now depending on which broker dealer a citizen may trade through.⁵ The allowance of 23-hour trading is seen as inevitable and it is best that this process is overseen closely by the watchful eyes of the Commission. The author believes that the proposal is wise to divide its 23-hour window into four distinct trading periods that can each be facilitated with different rules required by the nature of the trading times. The growing need for a 23-hour exchange has been brewing for some time now and the rise in popularity of cryptocurrency also illustrates the dire need for continuous trading.

As noted, different after-hour trading periods are available depending on your broker. It is still considered uncharted territory though for most traders. The volume of trades is significantly less than that during normal trading hours. An endorsement from the Commission for 23-hour

³ 15 U.S.C. § 78f. (2024)

⁴ <https://news.gallup.com/poll/506303/stock-ownership-highest-2008.aspx#:~:text=U.S.%20Stock%20Ownership%2C%20Annual%20Trends&text=Sixty%2Done%20percent%20of%20U.S.%20adults%20in%202023%20say%20they.52%25%20in%202013%20and%202016.>

⁵ Such dealers as Robinhood, Interactive Brokers, and Charles Schwab, and E-Trade provide an avenue through which investors can request to trade between the hours of 8pm to 4am while other broker dealers such as Fidelity Investments, Merrill Edge, WeBull, Tastytrade, Ally Invest, and Firsttrade all offer trading windows directly before the markets open and for a select few hours after markets close.

trading could begin to build investor confidence in after-hours trading and can serve as a new avenue in which the Commission can educate investors.

The author cites three specific reasons for expanded trading hours, discussed in turn below.

1. More Meaningful Corporate Disclosures

Allowing investors increased trading opportunities allows them to be able to react to real-time news that affects the companies they may consider trading. It has become an increasing trend for companies to release key filings such as earning reports at hours of the day that investors may not have access to trading or even be aware of the news. In the 90s, companies would sometimes release earnings reports after the markets closed, but in today's environment when trading is far more accessible it is harder for companies to continue that practice. It still can be done though. They may choose to simply release reports when the lowest number of eyes are watching the market or at key times when trading is still not available. The allowance of 23-hour trading gives individual investors real-time ability to react to corporate releases in real-time.

In 2021, GameStop's stock went through significant periods of volatility along with other stocks that became known as "meme stocks." Most of this volatility occurred after hours when normal traders were most likely unaware of how to trade. The author is not endorsing whether an investor should have participated in those periods of volatility. The author believes that investors should have been given the chance at least to participate in such activity if they deemed it a worthy venture.

2. Greater Price discovery

The granting of 23-hour trading will largely contribute to stocks being able to price to their true organic value if investors are able to access them at increased hours. Some investors may be left out of the market entirely working a typical 9am to 5pm day job. It should be encouraged that everyday Americans participate in markets to grow and protect their wealth, and as access to markets has increased so has that of consumer participation. The release of recent Federal Reserve statistics shows a remarkable 58% of American households own stocks in some form whether they be individual shares or investment in mutual funds. This trend has steadily been growing since the financial crisis of 2008. Increased market participation could see securities realizing their true value.

There are numerous risks associated with 23-hour trading that the Commission need weigh when considering approval of this proposal. One theory permeated is that the standard trading hours can serve as a guiderail against investors making impulsive decisions that could cost them wealth. Warren Buffet has opined that "For whatever reasons, markets now exhibit far more casino-like behavior than they did when I was young" and more specifically that "The casino now resides in many homes and daily tempts the occupants." However, the current proposal would serve primarily to even out the playing field among new players by increasing accessibility to markets. It would promote equal access and serve as an educational tool more than a lure of the uninitiated.

Other Comment Letters have argued that certain forms of trading should be limited to citizens due to research showing increased investor loss in extended trading hours. These Comment Letters use SEC regulations such as Regulation D and Regulation CF which limit certain trading to those deemed as “accredited investors” who are deemed to be operating at a higher level of financial sophistication as examples of normal investors being shielded from risk. The author would argue that the potential for trading losses should not limit an investors accessibility to trade in today’s markets. Other SEC regulations for “restricted securities” such as Regulation D and CF will still be unavailable for non-accredited investors.

3. More Liquidity

One of the current problems with after-hours and overnight trading is the fact that not enough investors are participating in it yet. This leads to investors potentially not being able to have their orders filled when submitted to the exchanges. The lack of potential buyers also leads to greater volatility and spreads in the prices of the securities. It is also intimidating to more novice investors knowing that they are most likely competing with professional traders during these hours of low liquidity who may intend to take advantage of them.

This is a key problem with trading taking place outside of the core market hours and may only be fixed in time as the current dynamics of the markets shift to investors being more open to after-hours trading. The approval of a 23-hour market from the Commission may significantly increase investor confidence in after-hours trading which could correct some of these trends.

II. Addressing The Commission’s Request For Comments On The Proposal’s Compliance With The Act.

The author will now address certain compliance matters asked specifically by the Commission in the latest filing on the Federal Register.

1. Section 6(b)(1) Compliance

The Commission has requested comments on specific provisions of the Act that the proposal may or may not satisfy. The first of which is Section 6(b)(1) of the Act that requires that the Commission find that an exchange is so organized and has the capacity to carry out the purposes of the Act.⁶ The Commission is particularly interested in the proposal’s compliance with that section of the Act in relation to 24X’s technology agreement with MEMX Technology.

MEMX Technology, like 24X, is a recently formed company that strives to “listen and continuously innovate to promote a fair, transparent, and efficient experience for all.”⁷ Exhibit E of 24X’s proposal states that MEMX Technology will be contracted with to provide technology support services to the exchange. MEMX Technology will be charged with providing several responsibilities in licensing the underlying technology of the exchange.⁸ 24X stresses in their

⁶ 15 U.S.C. §78f(b)(1). (2024)

⁷ <https://memx.com/>

⁸ See Exhibit E to 24X’s Form 1. “(1) the development and testing of software and hardware necessary to operate the matching engine and connectivity to other exchanges via a third-party routing broker(s) and third party-developed functions (including clearing, custody and client connectivity); (2) the provision of technical support in order for the

Form 1 that the services between themselves and MEMX Technology will be on their terms and carefully examined to meet the Commission's standards.⁹ Besides these assurances there are not clear details on how that will be enforced. The author believes that the Commission should note in their final rule the need for clarification on the relationship between 24X and MEMX. The nature of the relationship between 24X and MEMX is crucial to how the exchange is to operate. The final rule should further clarify if MEMX has the staff and infrastructure to facilitate 23-hour continuous trading. The rule should also give a detailed reassurance that the technology underlying the exchange will not breakdown due to a high user rate and further if the technology does fail, what the procedures will be to protect the exchange while also safeguarding investors information and portfolios.

The exchange is bound to be tested eventually by certain events, such as flash crashes. Recently a stock market glitch briefly showed Berkshire Hathaway stock down 99% after a New York Stock Exchange technical issue. A stock that typically trades around approximately \$625,000 per share briefly appeared at around \$185 per share. The New York Stock Exchange was able to identify the problem and correct it. Neither Berkshire Hathaway nor investors were harmed by the sudden glitch. This is just an example of how MEMX's technology may be tested. 24X along with MEMX should identify the procedures that they have in place to address these types of events which may happen during their trading hours.

Also, 24X's Form B-1 gives the undefined "staff" members a large degree of responsibility in terms of handling the exchange.¹⁰ The staff members appear to have broad duties that include handling private client information and quasi-investigative authority. The author would like to see a definition of who these members may be and the applicable code of conduct they may be subject to. Also, such broad responsibilities would appear to require a large

Exchange to operate and monitor the Exchange; and (3) the provision of ongoing system availability commitments, updates, fixes, and technology support."

⁹ See Exhibit E to 24X's Form 1 "All systems and services provided by MEMX Technologies will be consistent with Exchange Rules, and the Exchange will be responsible for ensuring that such systems and services are consistent with Exchange Rules."

¹⁰ See 24X's Form B-1. "A Member seeking exemptive relief as specifically permitted under any Exchange Rule shall file a written application with the appropriate Exchange department or staff as specified by the Exchange.", "After considering an application, Exchange staff shall issue a written decision setting forth its findings and conclusions.", "After the decision is served on the applicant, the application and decision shall be publicly available unless Exchange staff determines that the applicant has shown good cause for treating the application or decision as confidential in whole or in part.", "In every instance where an investigation has been instituted as a result of a complaint, and in every other instance in which an investigation results in a finding that there are reasonable grounds to believe that a violation has been committed, a written report of the investigation shall be submitted to the CRO by the Exchange's staff or, when appropriate, by the designated self-regulatory organization.", "The Subject must then endeavor to reach agreement with the Exchange's staff upon a letter of consent which is acceptable to the staff and which sets forth a stipulation of facts and findings concerning the Subject's conduct, the violation(s) committed by the Subject and the sanction(s) therefor.", "When any Hearing Officer considers a disciplinary matter he or she is expected to function impartially and independently of the staff members who prepared and prosecuted the charges." "Exchange staff shall make all necessary filings concerning formal and informal disciplinary actions required under the Act and the rules and regulations promulgated thereunder, and shall take all other actions necessary to comply with any other applicable law or regulation."

staff, and there is little clarification on the number of staff required to maintain these policies and control an efficient exchange. The final rule may note these discrepancies.

2. Section 6(b)(5) Compliance

The Commission has requested comments on how certain measures in the proposal comply with Section 6(b)(5)¹¹ of the Act.¹² The author will address the concerns below.

A. Disclosures

The Commission specifically asks if 24X’s proposed investor’s disclosures are sufficient to highlight the unique risks posed to investors during the 24X Market Session. The author believes that the proposal has met these standards by requiring multiple levels of disclosures regarding risk for investors during the trading period. Specifically, the proposal provides that “[n]o Member may accept an order from a customer for execution during Extended Hours Trading without disclosing to such customer that Extended Hours Trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk.”¹³

These disclosures appear accurate and concise enough to satisfy the rule. Any person looking to trade during the 24X Market Session will be aware of the numerous risks they face in trading during this period. The disclosures appear to be similar to other broker dealers in their extended hours trading disclosures. The author believes the proposal is wise in limiting the trading to certain well-known NMS stocks as well.¹⁴ Other securities can eventually be allowed during the session if the market proves to be strong enough to facilitate such trades.

B. Halts

One of the most impressive and well-thought-out pieces of 24X’s proposal is the key halts in trading it proposes during the 24X Market Sessions.¹⁵ 24X’s proposal calls for multiple

¹¹ 15 U.S.C. §78f(b)(5). (2024)

¹² Section 6(b)(5) of the Act requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, 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 mechanisms of a free and open market and a national market system, and in general to protect investors and the public interest.

¹³ See Exhibit E-1 of 24X’s Form 1

¹⁴ See 24X Rule 11.2(a). “[a]ny security in the Nasdaq-100® Index, S&P 500® Index, Russell 2000® Index and the top 50 exchange-traded funds by average daily volume during a given month”.

¹⁵ See Exhibit E-1 of 24X’s Form 1 “The Exchange will pause trading on each U.S. Business Day from 7:00 p.m. until 8:00 p.m. ET. Orders outstanding in the System at 6:59:59 p.m. ET each U.S. Business Day shall be automatically cancelled. In addition, the Exchange will pause trading at 8:00 a.m. ET each Saturday and resume trading at 11 a.m. ET each Saturday, in accordance with Rule 11.15(b). Orders outstanding in the System at 7:59:59 a.m. ET each Saturday shall be automatically cancelled. As described in Rule 11.15(c)(3), the Exchange will pause trading for industry-wide testing conducted on Saturdays, and resume trading, in accordance with Rule 11.15(b). The Exchange also 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, as set forth in Rule 11.15(c)(4). Furthermore, if there are any material corporate actions with respect to a particular security (i.e., corporate actions that may affect a stock price, stock

stops between trading sessions during the week to monitor markets. With a proposal to expand markets this much, it is necessary to periodically halt trading to check that the exchange is operating efficiently. The author believes that these provisions satisfy Section 6(b)(5).

In the future, the author believes that 24X should revisit trading halts around key disclosures from companies. While it may be wise to leave it this way to protect investors from fraud at the start of 23-hour trading, the author believes that the exchange should consider lifting this provision if they find they can adequately secure the markets around the key disclosure periods.

C. Risk And Volatility Monitors

During the Core Market Session, 24X would participate in the Plan to Address Extraordinary Market Volatility (“LULD Plan”) to address risk and volatility. Since the LULD Plan is not available during their proposed expanded hours, 24X proposes their own form of risk and volatility monitors for their 24X Market Sessions. They propose a “Price Band” model which is described in lengthy detail in their proposal.¹⁶ The model would calculate an upper and lower price band for each security, and trades would only be executed between those ranges. It is a novel concept that appears well thought out and calculated to address Section 6(b)(5), and the author supports this course of action.

Their proposal also includes a Market Wide Circuit Breaker (“MWCB”) that can halt the trading of securities according to three separate levels. The author believes it was wise to include these provisions as an extra layer of protection for investors as it would throw sand in the gears of any runaway security that needs to be examined further. The author believes that 24X has met the Section 6(b)(5) standard in this regard.

D. Equity Data Plans

The section of 24X’s proposal that requires the most clarification before final approval is its inability to provide the Equity Data Plans which it will incorporate during its 24X Market Sessions. As noted by the Commission, currently none of the Equity Data Plans currently operate during the hours proposed by 24X.¹⁷ At the moment, the only reassurance given by 24X is that it is working with such Equity Data Plans to extend their operations into the proposed market sessions. These ongoing communications between 24X and the Equity Data Plans should be examined closely by the Commission to see if the plans currently have the infrastructure and staffing to adequately manage these extended market sessions.

additions and subtractions, and similar actions) during the 24X Market Session, the Exchange will pause trading in the underlying security until trading resumes on the primary listing market for the security, where the pause in, and resumption of, trading will be conducted in accordance with Rule 11.15(b).”

¹⁶ See Exhibit E-1 of 24X’s Proposal.

¹⁷ The three Equity Data Plans that currently govern the collection, consolidation, processing, and dissemination of consolidated equity market data via the exclusive securities information processors (“SIPs”) are: (1) the Consolidated Tape Association Plan (“CTA Plan”); (2) the Consolidated Quotation Plan (“CQ Plan”); and (3) 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”).

24X has requested temporary relief from reporting certain transactional data during the market sessions as the Equity Data Plans are incorporated into their system. The author does not believe this is adequate to satisfy Section 6(b)(5) of the Act in its current proposal. As noted, these extended hours add significant risk to investors, and the exchange should be operating to its fullest compacity from the start of its operations. Leaving this unaddressed for a certain period could lead to less transparency and a compromise of consumer data. While the author does not believe this should lead to the outright denial of 24X's proposal, more should be done to clarify a specific timeframe in which they will be worked into the exchange's operations.

III. Miscellaneous Matters

1. Mutual Funds

The author would finally like to address the purchase of mutual funds specifically. Mutual funds are seen as a safer investment that many beginner investors seek to invest in to diversify portfolios. The proposal is largely silent on how investments in unconventional market instruments are traded. The current dynamic of how markets operate dictates that mutual funds price after the end of the core trading hours during the day. If trading is to evolve into a 23-hour format, it may dictate that mutual funds will one day need to be priced at a different time. This topic is especially pertinent due to many retail investors relying on them. Mutual funds have been the subject of fraud in the past. In 2003, numerous fund companies were fined a combined \$1.4 Billion for fraud in the trading of mutual funds. Increased investor knowledge on the pricing and timing of these funds should be elaborated upon by 24X.

The proposal notes that market orders will still be executed during the core market sessions but the author believes that disclosures to investors should specifically note when certain funds will be priced for investors. 24X's form B-1 gives a reasonable explanation of how exchange-traded funds ("ETFs"), which have become popular recently, will be addressed in terms of listing on the exchange, but 24X should give a similar explanation of how mutual funds will be handled in terms of listing and pricing.¹⁸

¹⁸ See 24X's Exhibit B-1. "For purposes of this Rule, at the end of each month for purposes of the following month, the Exchange shall determine the top 50 exchange-traded funds by average daily volume by calculating the average daily volume over the previous three months, and provide notice to its Members of such top 50 exchange-traded funds the first trading day of the month following the month in which the determination occurs. If the 99 Exchange determines that an exchange-traded fund that is currently trading on the Exchange is no longer one of the top 50 exchange-traded funds by average daily volume by calculating the average daily volume over the previous three months, the Exchange shall determine whether such exchange-traded fund will be continue to be eligible for trading on the 24X Market Session, and provide notice to its Members the first trading day of the month following the month in which the determination occurs."

2. Customer Transaction Fees

Currently, the proposal leaves the nature of their transactional fees somewhat vague.¹⁹ They cite reasonable fees that may be imposed that also can be changed from time to time and concludes that “Actual fee amounts and types will not be determined until close to the launch of Exchange because they will need to reflect the competitive landscape at that time.”

24X should give a range of where fees will land compared to other exchanges. It is not uncommon for a broker-dealer or exchange to give lengthy reports on their transaction fees and how they work.²⁰ It is not unreasonable to ask for a clarification from 24X that would give a range of where their fees may land or, even better, an explanation of how their fees will be calculated. Transaction fees are particularly important to investors now that some broker-dealers offer zero transaction fees. 24X in their filing and on their website note “reasonable fees” and the “Lowest Possible Costs” used. There are no other mentions of what these reasonable or low fees may be. Investors may be misled if the proposal is approved and the fees land higher than a typical investor would expect.

Conclusion

The author would again like to thank the Securities and Exchange Commission for opening the comment period on this important proposal from 24X.

Overall, the author has highlighted the positive and negative effects that allowing a continuous 23-hour trading period could have for investors. The endorsement from the Commission for a continuous 23-hour exchange will significantly evolve our markets into the current trading era. The need for the democratization of markets requires a proposal like this to be approved and overseen carefully by the Commission. While any expansion of the markets will undoubtedly open up risks for investors, that should not be the primary concern of the Commission when it comes to simply giving investors access to the markets themselves.

The author has also highlighted the specific provisions of the Act in which the Commission requested comments on in their latest filing with the Federal Register. While certain aspects of the filing should be clarified, the proposal should meet the standard to be approved as a national exchange after such discrepancies are made transparent. 24X appears to be greatly concerned about the safety of investors choosing to participate in their 23-hour exchange and has the technology in place to protect them from fraud. The author has asked for clarification on multiple points of the proposal. They may be minute, but they are key clarifications that reveal

¹⁹ See 24X’s Exhibit E-1. “The Exchange may prescribe such reasonable fees, and assessments or other charges as it may deem appropriate and as consistent with the Exchange Act... The Exchange may determine to revise or impose different fees upon its Members and Sponsoring Members from time-to-time.”

²⁰ See [About Extended Hours Trading \(schwab.com\)](https://www.schwab.com/extended-hours-trading); See Also <https://cdn.robinhood.com/assets/robinhood/legal/RHF%20Fee%20Schedule.pdf>; See Also <https://us.etrade.com/what-we-offer/pricing-and-rates>; https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/Brokerage_Commissions_Fee_Schedule.pdf; See Also <https://www.interactivebrokers.com/en/pricing/commissions-home.php>; See Also <https://www.webull.com/help/faq/10813-What-are-the-trading-fees-on-Webull-Are-you-commission-free>; See Also <https://www.jpmorgan.com/content/dam/jpm/securities/documents/JPMS-Fee-and-Commission-Schedule-SDI.pdf>

24X's ability to facilitate such a large exchange and will further give investors confidence in trading on their platform if they choose to.

Finally, the author highlighted concerns regarding the pricing of mutual funds that need be addressed by 24X as they are currently still priced at the normal core market trading hours. Additionally, the timing may need to change in the future if 23-hour trading becomes increasingly popular. Finally, the proposal should make clearer the range in which their transactional fees may land before approval. This is a significant choice the exchange will make that will influence how investors choose to interact with them, and it should be addressed before final approval.

Overall, the author supports the approval of the proposal from 24X with added modifications suggested herein.

Sincerely,

Richard Montone

JD/MBA Class of 2025