

June 28, 2024

Via Electronic Mail (rule-comments@sec.gov)

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

Re: 24X National Exchange LLC – Form 1 Application (File No. 10-242)¹

Dear Ms. Countryman:

The Healthy Markets Association² writes to urge the Commission to disapprove the above-referenced filing by the 24X National Exchange LLC (“24X”).

On March 24, 2022, 24X applied to become a registered securities exchange.³ Happily, that initial application didn’t go anywhere. However, in February 2024, 24X tried again.

As described more fully below, because the 24X Application is insufficiently detailed to demonstrate 24X’s compliance with the Exchange Act and Commission Rules, and the Commission does not have the information necessary to thoroughly assess the obvious, market-wide impacts of the potential approval on market participants, the 24X Application must be disapproved.⁴

¹ *24X Form 1 Application and Exhibits*, SEC, Exch. Act Rel. No. 99614, Feb. 27, 2024, available at <https://www.sec.gov/rules/other/2024/24x-form-1> (“24X Application”); see also, *In the Matter of the Application of 24X National Exchange LLC for Registration as a National Securities Exchange; 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*, SEC, Exch. Act Rel. No. 100254, May 31, 2024, available at <https://www.sec.gov/files/rules/other/2024/34-100254.pdf> (“Order Instituting Proceedings” or “OIP”).

²The Healthy Markets Association is a not-for-profit member organization focused on improving the transparency, efficiency, and fairness of the capital markets. Healthy Markets promotes these goals through education and advocacy to reduce conflicts of interest, improve timely access to market information, modernize the regulation of trading venues and funding markets, and promote robust public markets. Its members include public pension funds, investment advisers, broker-dealers, exchanges, and data firms. To learn about HMA or our members, please see our website at <http://healthymarkets.org>.

³ Letter from James Brady, Katten Muchin Rosenman, LLP, to Vanessa Countryman, SEC, Mar. 24, 2022, available at <https://www.sec.gov/files/rules/other/2022/24x/24x-form-1-filing-letter.pdf>.

⁴ For the purposes of this letter, we will not seek to more broadly comment on the policy choice to have yet another registered securities exchange in an already fractured market, or what the relative costs or benefits are to investors and market participants. We also won’t more fully examine our longstanding concerns with how registered securities exchanges are effectively granted by the Commission monopolist pricing power over data from their exchanges, and the Commission’s failure to meaningfully and consistently enforce the provisions of the Exchange Act to protect investors and other market participants from the abuse of that power. Rather, this letter is narrowly targeted on a small handful of the many substantive and procedural failures of this instant application.

The 24X Application Fails to Comply With Ownership Requirements

24X is 100% owned by a US-based holding company, that is itself 100% owned by a Bermuda-based holding company. The Bermuda-based holding company is largely owned by two investors – Dmitri Galinov and Point72 Ventures Investments, LLC (the asset management firm led by Steven A. Cohen).⁵ In addition, 24X’s ultimate Bermuda-based parent has a number of smaller investors, including Tanya Nazarov-Kenneally, Vladimir Nazarov, and Standard Chartered UK Holdings Limited.⁶

Based on its disclosures, 24X’s ownership and voting structure facially violate Commission Rules and the law. Rather than comply, however, 24X asserts that if the Commission approves its application, it has internal company documents that promise (to itself) that it will come into compliance with the law and Commission Rules within nine months of the approval. It is unclear whether or how this promise for future compliance would be enforceable, much less by whom.

Thus, it isn’t just that 24X is applying to become a registered securities exchange, but it is also seeking exemptions from the law and Commission Rules. The 24X Application offers no substantive or procedural justification for the exemption request, nor does it offer any meaningful analysis of the issues raised.

The 24X Application Fails to Comply With Audited Financial Statements Requirements

Form 1 requests applicants provide audited financial statements. The 24X Application offers none. Again, as with the ownership requirements, 24X seeks an exemption, and offers what is little more than a questionably enforceable promise to comply later. Specifically, 24X explains:

If the Commission approves the Exchange’s Form 1 Application for Registration as a National Securities Exchange, Bermuda Holdings, through US Holdings, will allocate sufficient assets to the Exchange to enable its operation. In particular, Bermuda Holdings shall make prior to the launch of the Exchange a cash contribution of \$5 million (in addition to any previously provided in-kind contributions, such as legal, regulatory, and infrastructure-related services) to US Holdings. In turn, US Holdings will make a corresponding cash contribution of \$5 million (in addition to any previously provided in-kind contributions, such as legal, regulatory, and infrastructure-related services) to the Exchange. The Exchange

⁵ Exhibit K, 4X Application, *available at* <https://www.sec.gov/files/rules/other/2024/24x-form-1-exhibit-k.pdf>.

⁶ Exhibit K, 4X Application, *available at* <https://www.sec.gov/files/rules/other/2024/24x-form-1-exhibit-k.pdf>.

represents that such cash and in-kind contributions will be adequate to operate the Exchange, including the regulation of the Exchange.⁷

Sadly, this one-page discussion offers absolutely no substantive information, documentation, or analysis with which the Commission could reasonably conclude that 24X could – much less will – comply with the law and Commission Rules. Again, the Commission is being asked to waive its requirements without articulated justification, and based on nothing more than a promise.

The audited financials requirement for Form 1 doesn't exist because the Commission simply wants to collect useless information. In return for unique privileges in the US marketplace, the law and Commission Rules impose a number of significant – costly – obligations upon exchanges. The provision of audited financials allows the Commission and market participants to examine whether an exchange is reasonably financially resourced so that it is likely to be able to fulfill its essential obligations.

Without audited financials, the Commission and the public are left to speculate whether the Exchange has the financial resources at present necessary to comply. Put simply, how can the Commission reasonably conclude that 24X can be expected to meet its obligations if the Exchange does not even have audited financials to provide?

The Exchange's conditional promise that it would provide audited financials in the future, if the Commission approves the application, is putting the proverbial cart before the horse.⁸

The 24X Application Fails to Meet Governance Disclosure Requirements

Form 1 requires applicants to provide details for their governance. Again, these requirements are intended to provide the Commission and public with detailed information about who would control an exchange. Rather than provide this essential information, the exchange acknowledges that none of the required structures currently exist, and simply promises to create the required structures, and then put people into the required roles in the future.

If the Commission approves the Exchange's Form 1 Application, 24X US Holdings LLC, as the sole LLC member of 24X Exchange, will appoint interim Directors of the Exchange Board (the "Interim Board") which will include interim Member Representative Director(s). Upon the appointment of the interim Directors by 24X US Holdings LLC, the Interim Board would

⁷ Exhibit I, 24X Application, available at <https://www.sec.gov/files/rules/other/2024/24x-form-1-exhibit-i.pdf>.

⁸ We recognize that the Commission staff has regrettably permitted selective non-compliance with some elements of the Exchange Act and Commission Rules when approving past exchange applications. While the staff may improperly view those often unsupported decisions as "precedent," that does not relieve the Commission of its burden to comply with the law and its own rules.

meet the Exchange Board composition requirements set forth in the Limited Liability Company Agreement of 24X Exchange (the “Exchange LLC Agreement”). Prior to the commencement of operations as an exchange, 24X Exchange represents that it would complete the full nomination, petition, and voting processes set forth in the Exchange LLC Agreement, which would provide persons that are approved as Exchange Members (as that term is defined in the Exchange LLC Agreement) of 24X Exchange after the Approval Date with the opportunity to participate in the selection of Member Representative Directors as promptly as possible after the effective date of the revised Exchange LLC Agreement, and replace the Interim Board.⁹

We found this chart of the governance and committee structures to be absolutely stunning.

⁹ Exhibit J, 24X Application, available at <https://www.sec.gov/files/rules/other/2024/24x-form-1-exhibit-j.pdf>.

The following persons are directors of 24X Exchange:

Name	Classification	Term	Type of Business
Dmitri Galinov	Industry/Chief Executive Officer		Exchange Officer
[TBD]	Member Representative		
[TBD]	Member Representative		
[TBD]	Non-Industry/Independent		
[TBD]	Non-Industry		
[TBD]	Non-Industry		
[TBD]	Non-Industry		

Committees of 24X Exchange

24X Exchange anticipates that it will establish the Exchange Board committees listed below, each of which shall be comprised of at least three members:

Regulatory Oversight Committee

Name	Classification	Term	Type of Business
[TO BE PROVIDED]			

Appeals Committee

Name	Classification	Term	Type of Business
[TO BE PROVIDED]			

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Filing in a chart with “TBD” and “TO BE PROVIDED” does not provide the Commission with sufficient information with which to assess compliance with the law or Commission Rules. The Exchange failed to provide the names, classifications, terms, and types of businesses of the persons to fill the required roles. The point of the chart is to have those boxes filled in. They are “to be provided” now – not in the future. What would be the basis for the Commission’s approval?

Again, we understand that the Exchange has promised that it will eventually do its job – if the Commission approves its application – but what if all that doesn’t happen? What if

¹⁰ Exhibit J, at 2, 24X Application, available at <https://www.sec.gov/files/rules/other/2024/24x-form-1-exhibit-j.pdf>.


something goes wrong? What if the process happens, but the individuals tasked with the positions lack sufficient expertise or experience to perform their duties, or they are otherwise deficient? What's the recourse for the Commission or market participants? Again, rather than complying with the law and Commission Rules, the Exchange is essentially asking the Commission – without providing any information, documentation, or analysis – to waive its requirements in return for a not-clearly enforceable promise that the Exchange will comply at some point in the future.



What are the Actual Relevant Locations for the 24X Exchange?

The application is somewhat unclear about the exchange's physical locations. The application makes it clear that 24X would use "Equinix data center services in New Jersey (NY4)" and a "secondary back-up data center" in Chicago, Illinois (CH4).¹¹

And while the ultimate parent of 24X is based in Bermuda, the exchange's actual headquarters is a bit unclear. While we understand that social media posts (including LinkedIn profiles) may be inaccurate reflections of reality, it appears as though 24X's Founder and CEO is based out of Miami.¹²



Dmitri Galinov  · 2nd
Founder and CEO of 24 Exchange
Miami, Florida, United States · [Contact info](#)
500+ connections

 24 Exchange LTD
 NYU Stern School of Business

The few other identified personnel for the Exchange appear to be based in New York City.¹³

When combined with the other material failures to provide information as part of its application, 24X has essentially failed to inform the Commission as to who would own the exchange, who would govern the exchange, what their interests would be, or where those people are located. If an exchange can pass the Commission's scrutiny under the Exchange Act and its own rules by simply leaving those questions open, then why even bother mandating the disclosure of those factors? Approval would be tantamount to the Commission effectively abandoning the requirements of Form 1 and the Exchange Act.

¹¹ Exhibit E-1, at 2, 24X Application, available at <https://www.sec.gov/files/rules/other/2024/24x-form-1-exhibit-e-1.pdf>.

¹² Dmitri Galinov, LinkedIn, available at <https://www.linkedin.com/in/galiametdinov/> (last viewed June 20, 2024).

¹³ See, e.g., David Sassoon, LinkedIn, available at <https://www.linkedin.com/in/david-sassoon-b267a49/> (last viewed June 20, 2024).

24X Application Raises Significant, Insufficiently Addressed Market Policy Concerns

As a general matter, the law and rules from the Commission governing the operations of exchanges, brokers, transfer agents, corporate issuers, and others all essentially take for granted a relatively time-limited trading day.

There are complex Commission, FINRA, and other self-regulatory organization rules regarding market openings and closings, as well as the pre- and post-market trading operations.

While the 24X Application appears to make a valiant effort to identify a handful of the obvious implications, such as maintaining a “protected quotation” status during the “normal trading session” hours, neither the Exchange nor we can comfortably identify all of the issues. But perhaps most importantly, in response to each of these broader policy issues raised, the Exchange has made – largely without information, documentation, or analysis – what is essentially an arbitrary choice.

Timing of Trading and Impact on Other Market Participants

The 24X Application claims that the Exchange would operate for 23 out of 24 hours each day, with the exception of Saturdays, when it would pause trading for 3 hours.

While the Exchange acknowledges that some downtime is necessary, it proposes just one hour six days per week for downtime. There is absolutely no way that just one hour for systems testing and maintenance is enough for everyone else in the markets.

Further, the Exchange proposes a specific hour (7pm-8pm ET) for that downtime. Why those specific hours? Again, how does that specific one hour of downtime impact other market participants, from issuers to investors to pricing services and transfer agents? None of that is materially discussed. Frankly, even if 24X attempted to raise the issues, we don't see any credible way for it to have sufficient information at its disposal to engage in any reasonable analysis on this point. That's the Commission's job. And this generally under-the-radar SRO filing has clearly been insufficient thus far at raising awareness of the relevant issues and elucidating essential information to make those decisions. Similarly, the Exchange acknowledges the “downtime” would be used for “corporate actions.” Again, we question how a non-listing exchange would have the presumed competency and power to control the timing of corporate actions.

Volatility, Halts, and Other Trading Controls

One of the very significant challenges facing markets during normal trading hours in recent years has been the aggregation of trading around the market opening and

closing, and the relatively thin liquidity during the middle parts of the day. In times of thin liquidity, of course, market prices may experience significant volatility.

Executions in “off” hours of lesser liquidity imposes greater risks for all investors – not just those who execute at those times. Unquestionably, traders who search for liquidity in thin markets may receive poor execution quality, but those executions may also negatively impact non-trading market participants (or regulators) who may look to those trading prices for regulatory compliance, risk monitoring, customer contractual, or other reasons. These impacts may also include additional counterparty risk management.

For example, suppose a hedge fund owns shares of a stock that is designated for overnight trading by 24X. Now further suppose that an unrelated party executes on the exchange at a price that is X% below the market close on 24X that night. Maybe the hedge fund would know better than to revalue its holdings in that stock overnight, but what about all of its counterparties? Should a prime broker for the hedge fund ignore that execution when evaluating its risk exposure to the hedge fund? Should that answer change depending upon whether that execution is provided to the SIP? Could the hedge fund find itself facing a margin call or other potentially severe adverse action based upon a thin, overnight market? Who’s going to draw the lines? How many contractual arrangements will need to be amended to address these new risks? The 24X Application doesn’t discuss these issues at all.

We agree with concerns with how 24X would coordinate with listing markets regarding trading halts and pauses during the overnight session.¹⁴

Notably, the Limit Up/Limit Down price bands would not apply during overnight trading. However, 24X appears to have arbitrarily recreated its own version of a substitute price banding concept that is based on the average trade price over the previous 5 minutes, and would be reset in certain circumstances.

While we admire the Exchange’s pluck in offering this alternative, the Exchange sadly offers no information, documentation, or analysis to support this decision. We frankly don’t know whether the volatility limits that 24X proposes are adequate to protect not just trading parties, but the entire markets. But that’s not our job to establish. That’s the Exchange’s. And it failed to do so.

Ironically, perhaps in recognition of the potential failure of its volatility management, the 24X Application asserts that it would require the not-yet-existent future Members to provide certain specified risk disclosures to investors concerning risk to trading in the overnight session.

¹⁴ See, e.g., Letter from Eun Ah Choi, Nasdaq, to Vanessa Countryman, SEC, Apr. 25, 2024, *available at* <https://www.sec.gov/comments/10-242/10242-463511-1223235.pdf>.

Obviously, disclosure of greater risks should be mandatory. However, we can't comprehend how any disclosure that would be sufficiently short and clear to be comprehensible would adequately capture the sheer volume of potential new risks or regulatory gaps in which such trading would occur. Further, as discussed above, the risks of overnight trading on 24X are not borne solely by trading counterparties. Rather, they include others who may – for whatever reason – look to those executions, or have counterparties or other business partners that look to those executions.

Whether the proposed investor risk disclosures are sufficient given the significantly higher risks of trading overnight.

24X Exchange Would be Wholly Dependent on a Third Party for Its Technology Needs

We have seen alternative trading systems operate using technology provided by an exchange before. However, as the Commission staff noted in the OIP, “24X proposes to enter into a technology services agreement with MEMX T... to license the technology underlying 24X.”¹⁵

While an ATS may be able to avoid Regulation SCI, a registered exchange cannot avoid it. We do not see how 24X would be able to comply with Regulation SCI when it would not be in control of its own systems. We are aware that another exchange has filed with the Commission to rely upon MEMX for its operations, and we have similar concerns in that context as well.¹⁶ The introduction of another essential business partner creates previously unprecedented conflicts of interest for a registered exchange and complications for ownership and governance.

For example, consider the recent Commission settlement with the NYSE and its affiliates over the failure to notify the Commission of a potentially serious cyber breach of its systems. Would 24X be in a position to promptly identify such a breach if it is entirely reliant on a third party for security and other technology? Once aware, what assistance would it require from its supplier to be able to respond in a timely way that protects exchange systems and user information?

Because the exchange would be so heavily dependent upon MEMX, would MEMX be more properly viewed as an owner or control person? Would that change once the exchange becomes operational? Imagine, for example, that the 24X Application is approved and the Exchange begins operating as currently contemplated. What market power would MEMX practically have over 24X? What ways could that impact 24X's

¹⁵ OIP, at 6.

¹⁶ See, *Notice of Filing of a Proposed Rule Change to Amend its Trading Rules in Connection with its Transition to a New Trading Platform*, SEC, Exh. Act Rel. No. 100205, May 21, 2024, available at <https://www.sec.gov/files/rules/sro/ltse/2024/34-100205.pdf>.

governance, operations, or financials? These issues are not materially raised, much less addressed in the 24X Application.

Even if the Commission could find that an exchange could potentially comply with all its regulatory obligations under this type of an arrangement, the arrangement itself would need to be public, so that the Commission and public could assess the conflicts of interests and risks posed by it to the operations of 24X.

Selection of Securities to Be Traded Overnight

In recognition of the extreme risks posed by limited liquidity, 24X has proposed limiting trading to stocks contained in certain major indexes or heavily traded exchange traded products. The Exchange has proposed a process for not-yet-existent Members to request stocks to be added to the overnight session.

While the Exchange, market participants, and regulators are right to be concerned with trading in thinly traded securities overnight, the Exchange's arbitrary establishment of the boundaries raises questions regarding both the factual basis and rationale for those choices. Again, sadly, the 24X Application provides essentially no information, documents, or analyses to support the choices made.

The Commission cannot reasonably ignore those concerns, nor may it rubber stamp the Exchange's choices. The Commission must, by law, gather the relevant facts, perform a reasonable analysis, and articulate a reasonable connection between the facts provided and the actions taken.

Market Data

Market data revenues travel. The 24X Application explains that the Exchange would offer colocation and cross connects at both data centers.

But more broadly, the 24X Application declares that the Exchange would join the NMS plans for market data, and would seek to disseminate quotes and trades for its sessions overnight and on weekends. However, the SIP can't do that now. 24X chose to file its second application without knowing how long it would take for the SIPs to overhaul their operations. Given the nearly decade-long wait for the Operating Committee to add odd lot quotations to the SIPs, we are not confident that this process will be timely, cost-effective, or seamless.

The Exchange hasn't offered an idea as to how that would change... or at who's initial or ongoing expense. Is the Exchange going to front the money? We at HMA have been trying (largely, unsuccessfully) to nudge the exchanges to add odd lot quotations to the SIP for years. And that's been subject to Commission rulemakings.

The SIP committees have a project group working on this, but the actual costs and timelines to overhaul processor operations to accommodate this one applicant likely will not be known for a substantial period of time. That means it is likely that the SIP overhaul will be deferred well past the deadline for the Commission to act on the application in late November. Further, the timing and terms of including 24X data in the consolidated data feeds is information that commenters need to be able to meaningfully comment on this proposal.

The Commission should not allow the Exchange to engage in overnight or weekend trading prior to the ability of its quotes and trades to be included in consolidated data – like all quotes and trades in all other NMS stocks by all other exchanges during all hours those exchanges are open for trading.

If 24X is the only source of information for data during overnight and weekend hours, market participants will be entirely dependent on 24X as the exclusive source of data for much of the time it is operating. That conflicts with the purpose for having “public” consolidated data feeds, which provide an independent and broadly available source of data for all investors.

Trading Rules and Best Execution

The majority of market protections are currently constructed around the traditional trading day. For example, the Order Protection Rule contemplates multiple exchanges having competing listings.

Similarly, order routing and execution quality disclosures similarly set benchmarks around executions during the traditional day (and a competitive order routing environment). Simply saying the Order Protection Rule won’t apply to overnight and weekend trading, for example, doesn’t solve these problems or risks to investors.

While the Exchange has acknowledged some of these issues in its application, and taken its own approach for how it would like to deal with them, the risks of potential manipulation and statistical skewing reaches far beyond just those who trade on it.

Conclusion

The 24X Application seeks to substitute actual compliance with the law and Commission Rules with a set of promises that the Exchange would, if approved by the Commission, come into compliance in the future.

Disclosing non-compliance and even well-intentioned best efforts to come into future compliance does not provide the Commission with sufficient basis with which to conclude that the Exchange's filing complies with the law and Commission Rules.

Further, the 24X Application would unquestionably have profound, market-wide, long term impacts on issuers, investors, brokers, and many other market participants, many of whom are unaware of the application (which had received a whopping total of 5 comments prior to the OIP).

Unlike other major market structure reforms that are promulgated pursuant to the Commission's very public, rigorous rulemaking process (including robust economic analyses mandated by the Administrative Procedure Act), the entirety of US market structure would be upended by this one application. Many of the issues raised by the application are either not raised by the Exchange at all, or are summarily addressed without sufficient consideration or analyses.

The 24X Application fails in nearly every way, and should be disapproved.

Thank you for your consideration.

Sincerely,

Chris Nagy
Research Director

Tyler Gellasch
President and CEO