

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77395; File No. 4-533)

March 17, 2016

Joint Industry Plan; Order Approving Amendment No. 3 to the National Market System Plan for the Selection and Reservation of Securities Symbols Submitted by Financial Industry Regulatory Authority, Inc., BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE MKT, LLC, and NYSE Arca, Inc.

I. Introduction

On August 24, 2015, Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of itself and the following parties to the National Market System (“NMS”) Plan for the Selection and Reservation of Securities Symbols (the “Plan”): BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE MKT, LLC, and NYSE Arca, Inc. (each a “Party” and collectively with FINRA, the “Parties”), filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² an amendment (“Amendment No. 3”) to the Plan.³ Amendment No. 3 was published for comment in the Federal Register on February 18,

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ The Plan is an NMS plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. See Securities Exchange Act Release No. 58904 (November 6, 2008), 73 FR 67218 (November 13, 2008).

2016.⁴ The Commission received no comment letters on this proposal. This Order approves Amendment No. 3 to the Plan.

II. Background and Description of the Proposal

A. Background

The Plan was created to establish a uniform system for the selection and reservation of securities symbols and sets forth, among other things, the process for securing perpetual and limited-time reservations (“List A and List B”), the use of a waiting list, the right to reuse a symbol, and the ability to request the release of a symbol. Currently, Section IV(d) of the Plan outlines the procedures with respect to reuse of a symbol, and requires that in the event a Party ceases to use a symbol, such symbol will be automatically reserved by that Party for a period of 24 months, notwithstanding any other limits on the number of reserved symbols specified in the Plan. However, in the event that the Party ceasing to use the symbol neither: (1) places the symbol on its List A or (2) uses the symbol within 24 months, the symbol will be released for use pursuant to Section IV(b)(5) (Non-Use or Release of Symbols Within Time Period). In such instances, the symbol may be reused by a different Party to identify a new security in accordance with the procedures set forth in the Plan, but in no event may a symbol be reused to identify a new security if such use would cause investor confusion in the judgment of the party seeking to reuse the symbol.

B. Description of the Proposal

In Amendment No. 3,⁵ the Parties propose to modify the Plan to revise Section IV(d) to provide that, where a Party ceases to use a symbol, such party may: (1) elect to release the

⁴ See Securities Exchange Act Release No. 77123 (February 11, 2016), 81 FR 8264 (February 18, 2016) (“Amendment No. 3 Notice”).

symbol, and (2) that such symbol may not be reused to identify a new security within 90 calendar days from the last day of its use, without the consent of the Party that released the symbol. In addition, Amendment No. 3 proposes that a Party may not reuse (or consent to the reuse of) a symbol to identify a new security unless such Party reasonably determines that such use would not cause investor confusion.⁶

Separately, Amendment No. 3 also includes several technical and ministerial proposed changes to provide current information about the name and principal place of business of certain parties to the Plan.

III. Discussion

After careful review, the Commission finds that Amendment No. 3 is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanisms of, a national market system. By allowing a Party to elect to release a symbol immediately after its discontinued use, Amendment No. 3 would encourage the efficient use of symbols to the benefit of the Parties and potential issuers. Additionally, the proposed symbol reuse process, which includes a presumptive 90-day waiting period as well as the requirement that a Party may not reuse (or consent to the reuse of) a symbol to identify a new security unless such Party reasonably determines that such use would not cause investor confusion, would help ensure that the reuse of symbols would not cause investor confusion. The Commission notes that the Parties have also stated that the amendment provides for a fair and orderly approach that would be applied consistently by all Parties to

⁵ See Amendment No. 3 Notice, supra note 4, for a more detailed description of the proposed changes.

⁶ In making a reasonable determination as to whether the reuse of a symbol would cause investor confusion, Parties would consider factors such as the level of recent activity in the old security, including trading frequency, volume and the number of market maker quotes. See Amendment No. 3 Notice, supra note 4, at 5.

facilitate investor protection. Finally, the Commission believes that the proposed technical and ministerial changes should be adopted to reflect updated Party names and addresses to the Plan.

IV. Conclusion

For the reasons discussed above, the Commission finds that Amendment No. 3 is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act, and the rules and regulations thereunder, that Amendment No. 3 to the Plan (File No. 4-553) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Robert W. Errett
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(29).