



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

September 10, 2018

Mr. John Ramsay
Chief Market Policy Officer
IEX Group, Inc.
4 World Trade Center, 44th Floor
New York, NY 10007

Re: Exemption Under Rule 608(e) of Regulation NMS under the Securities Exchange Act of 1934 from Certain Provisions of the “Plan to Implement a Tick Size Pilot Program”

Dear Mr. Ramsay,

In your letter dated August 31, 2018,¹ Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc., the Chicago Stock Exchange, Inc., the Investors Exchange LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., NASDAQ BX, Inc., NASDAQ PHLX LLC, the Nasdaq Stock Market LLC, and the Financial Industry Regulatory Authority, Inc. (collectively, “Participants”²) request an exemption from certain provisions of the Plan to Implement a Tick Size Pilot Program (“Tick Size Pilot”)³ in order to terminate the quoting and trading requirements of the Tick Size Pilot at the end of trading on Friday, September 28, 2018, instead of at the end of trading on Tuesday, October 2, 2018.

¹ See letter from John Ramsay, Chief Market Policy Officer, IEX Group, to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission (“Commission”) dated August 31, 2018 (“Exemption Request”).

² Capitalized terms not otherwise defined herein have the same meaning as they are defined in the Plan.

³ See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (“Approval Order”). See also, Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4-657), 80 FR 70284 (File No. 4-657) (November 13, 2015), which extended the date of implementation from May 6, 2016 to October 3, 2016. On September 13, 2016, the Commission, pursuant to delegated authority, issued an exemption to permit the Pilot Period to begin with a phased rollout of Pilot Securities starting on October 3, 2016 and ending on October 31, 2016. See Letter to Eric Swanson, EVP, General Counsel and Secretary, Bats Global Markets, Inc., from David Shillman, Associate Director, Division of Trading and Markets (“Division”), Commission, dated September 13, 2016.

Under the Tick Size Pilot, the Pilot Period is defined as “the operative period of the Tick Size Pilot Program, lasting two years from the date of implementation.” The date of implementation was October 3, 2016.⁴ Accordingly, the Pilot Period is scheduled to end pursuant to the terms of the Tick Size Pilot at the end of trading on October 2, 2018.⁵

The Participants request that the Commission, pursuant to Rule 608(e) of Regulation NMS under the Securities Exchange Act of 1934 (“Exchange Act”), exempt them from the requirements of Rule 608(c) of Regulation NMS⁶ that they comply with, and enforce compliance by their members with, Sections VI.B., C., and D. of the Tick Size Pilot, which set forth the separate quoting and trading requirements for Pilot Securities in Test Group 1, Test Group 2 and Test Group 3 (“Test Group Pilot Securities”), after the end of trading on Friday, September 28, 2018. Accordingly, with this exemption, the Participants request that the quoting and trading requirements of the Tick Size Pilot cease to be in operation after the end of trading on Friday, September 28, 2018.

Rule 608(e) of Regulation NMS provides that the Commission may exempt from the provisions of Rule 608 of Regulation NMS, either conditionally or on specified terms and conditions, any self-regulatory organization, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and the perfection of the mechanisms of, a national market system.⁷ As discussed below, the Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, is hereby granting to each Participant a limited exemption from the requirement to comply with, and enforce compliance by their members with, Sections VI.B, C., and D. of the Tick Size Pilot as required under Rule 608(c) of Regulation NMS after the end of trading on Friday, September 28, 2018.⁸

The Participants have requested this exemption so that the quoting and trading requirements set forth in Sections VI.B, C., and D. of the Tick Size Pilot can be

⁴ Id.

⁵ The data collection and reporting requirements continue for an additional six months after the end of the Pilot Period. See Section VII of the Tick Size Pilot.

⁶ Rule 608(c) of Regulation NMS requires the Participants to comply with the terms of the Tick Size Pilot. Further, Rule 608(c) of Regulation NMS requires each Participant to enforce compliance with the Tick Size Pilot by its members and persons associated with its members. 17 CFR 242.608(c).

⁷ 17 CFR 242.608(e).

⁸ The Participants note that they intend to submit to the Commission proposed rule changes seeking corresponding changes to their respective rules to reflect this exemption. See Exemption Request, supra note 1, at 3.

terminated after the end of trading on September 28, 2018. The Participants have indicated that terminating the quoting and trading requirements after the end of trading on September 28, 2018, should facilitate an orderly transition back to the quoting and trading requirements that are otherwise applicable to NMS stocks.⁹ The Participants noted that their members made systems changes to comply with the quoting and trading requirements of the Tick Size Pilot. The Participants also noted that industry representatives have indicated that changing the quoting and trading requirements during the trading week may increase the risk of a disorderly transition out of the Tick Size Pilot by necessitating systems changes over a short time frame.¹⁰ According to the Participants, ending the quoting and trading requirements at the end of a trading week would provide sufficient time to adjust and test internal systems and minimize the risk of potential disruption.¹¹

⁹ The Participants have indicated that all Pilot Securities would be placed in the Control Group when the quoting and trading requirements end, and continuing during the six-month period following the end of the Pilot Period in order to meet the data collection and reporting requirements specified in Section VII of the Tick Size Pilot. See Exemption Request, supra note 1, at 2.

¹⁰ See also letters from Christopher Bok, Financial Information Forum, to David Shillman, Associate Director, Division, Commission, dated August 28, 2018 (“FIF Letter”); Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Brett Redfearn, Director, Division, Commission, dated August 30, 2018 (“SIFMA Letter”); and James Toes, President and CEO, Security Traders Association, to Brett Redfearn, Director, Division, Commission, dated September 4, 2018 (“STA Letter”). The FIF Letter stated that terminating the quoting and trading requirements at the end of trading on Friday, September 28, 2018, would provide adequate lead time (*i.e.*, 65 hours) for FIF members to test their systems and ensure that any impact resulting from the migration to pre-pilot trading behavior would be minimized or eliminated prior to market open on Monday, October 2 [sic], 2018. The SIFMA Letter stated that the Tick Size Pilot’s current scheduled end date on a Tuesday does not provide sufficient time for member firms to properly implement and test necessary system and coding changes by market open on a Wednesday. The SIFMA Letter also stated that allowing the quoting and trading requirements to end on a Friday would reduce operational risk and would provide market participants with sufficient time to conduct simulated testing and resolve any deployment issues over the weekend before markets open on Monday, October 1, 2018. The STA Letter noted concerns about making mid-week systems changes on this scale and requested that the Commission end the Tick Size Pilot on Friday, September 28, 2018.

¹¹ The SIFMA Letter also noted that making significant changes overnight raises concerns of operational risks to both member firms and the markets generally due to the complexity of reverting to pre-Tick Size Pilot requirements. See SIFMA Letter, supra note 10.

The Commission grants the exemption to each Participant from complying with, and enforcing compliance by their members with, Sections VI.B, C., and D. of the Tick Size Pilot after the end of trading on September 28, 2018. The exemption would provide the Participants and their members with additional time over the weekend to implement and test any necessary technical or operational changes to their systems. Further, the additional time would allow Participants and their members to address any unanticipated issues that may arise in the transition of Test Group Pilot Securities to the quoting and trading requirements that are otherwise applicable to NMS stocks. Ending the quoting and trading requirements two trading days early will not be harmful to investors or negatively impact the utility of the Tick Size Pilot data. This exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and the perfection of a national market system because it should help to facilitate an orderly transition of the Test Group Pilot Securities to the quoting and trading requirements that are otherwise applicable to NMS stocks.¹²

Accordingly, Test Group Pilot Securities will subject to the quoting and trading requirements that are otherwise applicable to NMS stocks on Monday, October 1, 2018.

* * *

This exemption is conditioned on the facts and representations presented in your letter.

For the Commission,
by the Division of Trading and Markets,
pursuant to delegated authority.¹³



David S. Shillman
Associate Director

¹² The Commission notes that the data collection and reporting requirements of the Tick Size Pilot are not impacted by this exemption. See supra note 5.

¹³ 17 CFR 200.30-3(a)(42).