

Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number 4-518. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4-518 and should be submitted on or before November 7, 2008.

### III. Commission's Findings and Order Granting Accelerated Approval of Proposed Plan Amendment

The Commission finds that the proposed Joint-SRO Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.<sup>4</sup> Specifically, the Commission believes that the proposed amendment, which permits BATS to become a participant to the Joint-SRO Plan, is consistent with the requirements of Section 11A of the Act, and Rule 608 of Regulation NMS. The Plan establishes appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS, available to the public in a uniform, readily accessible, and usable electronic format. The proposed amendment to include BATS as a participant in the Joint-SRO Plan will contribute to the maintenance of fair and orderly markets

and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers.

The Commission finds good cause to grant temporary effectiveness to the proposed Joint-SRO Plan amendment, for 120 days, until February 5, 2009. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow BATS to become a participant in the Joint-SRO Plan. On August 18, 2008, the Commission granted the application of BATS for registration as a national securities exchange.<sup>5</sup> One of the conditions to operation of the BATS Exchange is participation in national market system plans, including the Joint-SRO Plan.<sup>6</sup> As a Plan participant, BATS would have timely information on the Plan procedures as they are formulated and modified by the participants. The Commission finds, therefore, that granting temporary effectiveness of the proposed Joint-SRO Plan amendment is appropriate and consistent with Section 11A of the Act.<sup>7</sup>

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 11A of the Act<sup>8</sup> and Rule 608 of Regulation NMS,<sup>9</sup> that the proposed Joint-SRO Plan amendment is approved for 120 days, through February 5, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-23762 Filed 10-7-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 58723]

### Order Extending Emergency Order Pursuant to Section 12(K)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond to Market Developments

October 2, 2008.

Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934

<sup>5</sup> See Securities Exchange Act Release No. 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008).

<sup>6</sup> *Id.* at 49507.

<sup>7</sup> 15 U.S.C. 78k-1.

<sup>8</sup> 15 U.S.C. 78k-1.

<sup>9</sup> 17 CFR 242.608.

<sup>10</sup> 17 CFR 200.30-3(a)(29).

("Exchange Act"),<sup>1</sup> on September 18, 2008, the Securities and Exchange Commission ("Commission") issued an Emergency Order (the "Order") that prohibited persons from selling short the securities of financial institutions. The Order became effective at 12:01 a.m. E.D.T. on September 19, 2008 and is currently set to terminate at 11:59 p.m. E.D.T. on October 2, 2008.<sup>2</sup>

Pursuant to our authority under Section 12(k)(2)(C) of the Exchange Act, we are extending the Order. Section 12(k)(2)(C) authorizes the Commission to extend an emergency order issued pursuant to Section 12(k)(2)(A) of the Exchange Act for a total effective period of up to 30 calendar days, if the Commission finds that the emergency still exists and determines that an extension is necessary in the public interest and for the protection of investors to maintain fair and orderly securities markets.

We have carefully reevaluated the current state of the markets and we remain concerned about the potential for sudden and excessive fluctuations of securities prices generally and disruption in the functioning of the securities markets that could threaten fair and orderly markets. We intend the prohibition to restore investor and market confidence by preventing short selling from being used to drive down the prices of securities in financial institutions even where there is no fundamental basis for a price decline other than general market conditions. Thus, we have determined in this environment that the standards under Section 12(k)(2) for extending the Order have been met. Accordingly, we have determined that extending the Order is in the public interest and necessary to maintain fair and orderly securities markets and for the protection of investors.

*It is therefore ordered that*, pursuant to Section 12(k)(2)(C) of the Exchange Act, the Order is extended such that it will terminate at the earlier of (i) three business days from the President's signing of the Emergency Economic Stabilization Act of 2008 (H.R. 1424), or (ii) 11:59 p.m. E.D.T. on Friday, October 17, 2008.

By the Commission.

**Florence E. Harmon,**

*Acting Secretary.*

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<sup>1</sup> 15 U.S.C. 78j(k)(2).

<sup>2</sup> See Securities Exchange Act Release No. 58592 (Sept. 18, 2008); see also Securities Exchange Act Release No. 58611 (Sept. 21, 2008).

<sup>4</sup> In approving this proposed Joint-SRO Plan amendment, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).