

plans to submit this existing collections of information to the Office of Management and Budget for extension and approval.

- Rule 12d2-2 (17 CFR 240.12d2-2) and Form 25 (17 CFR 249.25) Removal and Notification of Removal from Listing and/or Registration.

On February 12, 1935, the Commission adopted Rule 12d2-2,¹ and Form 25 under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et seq.*) ("Act"), to establish the conditions and procedures under which a security may be delisted from an exchange and withdrawn from registration under Section 12(b) of the Act.² The Commission adopted amendments to Rule 12d2-2 and Form 25 in 2005.³ Under the amended Rule 12d2-2, all issuers and national securities exchanges seeking to delist and deregister a security in accordance with the rules of an exchange must file the adopted version of Form 25 with the Commission. The Commission also adopted amendments to Rule 19d-1 under the Act to require exchanges to file the adopted version of Form 25 as notice to the Commission under Section 19(d) of the Act. Finally, the Commission adopted amendments to exempt options and security futures from Section 12(d) of the Act. These amendments are intended to simplify the paperwork and procedure associated with a delisting and to unify general rules and procedures relating to the delisting process.

The Form 25 is useful because it informs the Commission that a security previously traded on an exchange is no longer traded. In addition, the Form 25 enables the Commission to verify that the delisting has occurred in accordance with the rules of the exchange. Further, the Form 25 helps to focus the attention of delisting issuers to make sure that they abide by the proper procedural and notice requirements associated with a delisting. Without Rule 12d2-2 and the Form 25, as applicable, the Commission would be unable to fulfill its statutory responsibilities.

There are ten national securities exchanges that trade equity securities that will be respondents subject to Rule 12d2-2 and Form 25.⁴ The burden of complying with Rule 12d2-2 and Form

25 is not evenly distributed among the exchanges, however, since there are many more securities listed on the New York Stock Exchange, the NASDAQ Stock Market, and the American Stock Exchange LLC than on the other exchanges. However, for purposes of this filing, the Commission staff has assumed that the number of responses is evenly divided among the exchanges. Since approximately 994 responses under Rule 12d2-2 and Form 25 for the purpose of delisting equity securities are received annually by the Commission from the national securities exchanges, the resultant aggregate annual reporting hour burden would be, assuming on average one hour per response, 994 annual burden hours for all exchanges. In addition, since approximately 371 responses are received by the Commission annually from issuers wishing to remove their securities from listing and registration on exchanges, the Commission staff estimates that the aggregate annual reporting hour burden on issuers would be, assuming on average one reporting hour per response, 371 annual burden hours for all issuers. Accordingly, the total annual hour burden for all respondents to comply with Rule 12d2-2 is 1,365 hours. The related costs associated with these burden hours are \$76,177.50.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: Lewis W. Walker, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: PRA_Mailbox@sec.gov. Comments must be submitted within 60 days of this notice.

Dated: September 15, 2008.

Florence E. Harmon,
Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of: EA Industries, Inc., Ebiz Enterprises, Inc., and Einstein Noah Bagel Corp. (n/k/a ENBC Corp.); Order of Suspension of Trading

September 17, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EA Industries, Inc. because it has not filed any periodic reports since the period ended June 27, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ebiz Enterprises, Inc. because it has not filed any periodic reports since the period ended December 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Einstein Noah Bagel Corp. (n/k/a ENBC Corp.) because it has not filed any periodic reports since the period ended April 24, 2001.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on September 17, 2008, through 11:59 p.m. EDT on September 30, 2008.

By the Commission.

Jill M. Peterson,
Assistant Secretary.

[FR Doc. E8-22071 Filed 9-17-08; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58546; File No. SR-BATS-2008-003]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rule 11.5, Entitled "Orders and Modifiers," To Provide for a New Order Type—Modified Destination Specific Order

September 15, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

¹ See Securities Exchange Act Release No. 98 (February 12, 1935).

² See Securities Exchange Act Release No. 7011 (February 5, 1963), 28 FR 1506 (February 16, 1963).

³ See Securities Exchange Act Release No. 52029 (July 14, 2005), 70 FR 42456 (July 22, 2005).

⁴ The staff notes that there are two additional national securities exchanges that only trade standardized options which, as noted above, are exempt from Rule 12d2-2.