

decide to purchase. Additionally, the disclosures provided by the aforementioned operating companies with respect to risks relating to their bitcoin holdings are generally substantially smaller than the registration statement of a bitcoin ETP, including the Registration Statement, typically amounting to a few sentences of narrative description and a handful of risk factors.<sup>47</sup> In other words, investors seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin and are not fully benefitting from the risk disclosures and associated investor protections that come from the securities registration process.

#### Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 5711(d). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 5800 and following. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of additional actively-managed exchange-traded products that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NASDAQ-2023-019 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-NASDAQ-2023-019. This file number should be included on the subject line if email 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 website (<https://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 website viewing and printing 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 the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2023-019 and should be submitted on or before August 11, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>48</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2023-15474 Filed 7-20-23; 8:45 am]

BILLING CODE 8011-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21108]

### Academy Express, LLC and Franmar Leasing, LLC—Purchase of Certain Assets of James River Bus Lines

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice tentatively approving and authorizing finance transaction.

**SUMMARY:** Academy Express LLC (Express), a motor carrier of passengers; Franmar Leasing LLC (Franmar), a noncarrier; and James River Bus Lines (James), a motor carrier of passengers (collectively, Applicants), filed an application for approval of the sale of certain assets of James to Express and Franmar. The Board is tentatively approving and authorizing this transaction. If no opposing comments are timely filed, this notice will be the final Board action.

<sup>48</sup> 17 CFR 200.30-3(a)(12).

<sup>47</sup> See, e.g., Tesla 10-K for the year ended December 31, 2020, which mentions bitcoin just nine times: [https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k\\_20201231.htm](https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm).

**DATES:** Comments must be filed by September 5, 2023. If any comments are filed, Applicants may file a reply by September 19, 2023. If no opposing comments are filed by September 5, 2023, this notice will be final on September 6, 2023.

**ADDRESSES:** Comments may be filed with the Board either via e-filing on the Board's website or mailing to the Board's offices and must reference Docket No. MCF 21108. Comments may be e-filed at [www.stb.gov/proceedings-actions/e-filing/other-filings/](http://www.stb.gov/proceedings-actions/e-filing/other-filings/). Mailed comments may be sent to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of comments must be sent to Applicants' representative: Joseph J. Ferrara, Ferrara and Associates, 1111 Paterson Ave., Hoboken, NJ 07030.

**FOR FURTHER INFORMATION CONTACT:** Amanda Gorski at (202) 245-0291. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

**SUPPLEMENTARY INFORMATION:** According to the application,<sup>1</sup> Express and Franmar<sup>2</sup> are affiliated entities under the common control of the Tedesco Family ESBT Trust (the ESBT Trust). (Appl. 1; Suppl. 9, June 21, 2023.) Express is a motor carrier licensed by the Federal Motor Carrier Safety Administration (FMCSA) that operates interstate charter and contract motor coach passenger services in states along the East Coast, primarily in the Northeast, from garage facilities located in Massachusetts, Rhode Island, Connecticut, New Jersey, Maryland, Northern Virginia, and North Carolina. (Appl. 7; Suppl. 3, June 21, 2023.) Franmar, a non-carrier, is engaged exclusively in the ownership and leasing of passenger motor coaches for use by Express and its motor carrier affiliates, as described below. (Appl. 5.) James is a family-owned motor carrier engaged in passenger transportation services in and from Virginia from customer bases centered in the Richmond and Norfolk areas. (Appl. 1, 7; Suppl. 4, June 21, 2023.)<sup>3</sup>

<sup>1</sup> The application was filed on May 9, 2023. By decision served June 8, 2023, Applicants were directed to file certain supplemental information. Applicants filed the supplement on June 21, 2023. Therefore, for purposes of determining the procedural schedule and statutory deadlines, the filing date of the application is June 21, 2023. See 49 CFR 1182.4(a). On July 11, 2023, Applicants submitted a second supplement clarifying various points in their June 21, 2023 supplement.

<sup>2</sup> The application refers to this party as both "Franmar Leasing LLC" and "Franmar Leasing, Inc." (See Appl. 5-6.)

<sup>3</sup> Further information about James—including its U.S. Department of Transportation (USDOT)

Applicants state that the ESBT Trust owns and controls three FMCSA carriers—Express, Academy Lines LLC (Lines), and Airport Express LLC (Airport)—along with Franmar and several other non-carrier companies. (Suppl. 8, June 21, 2023.) According to Applicants, Francis and Mark Tedesco (the Tedescos) are the lifetime beneficiaries of the ESBT Trust as well as a second trust—the Academy (Florida) ESB Trust (the Florida Trust)—that owns and controls a fourth FMCSA carrier, Academy Bus LLC (FL) (Bus FL). (*Id.* at 8, 10.)<sup>4</sup> Applicants explain that through these respective trusts, the Tedescos exercise ownership and control of the carriers and affiliated non-carriers identified in their filings. (*Id.* at 8-11.)

James proposes to sell assets used in its motor coach passenger transportation business pursuant to an asset purchase agreement dated April 23, 2023. (Appl. 1, Ex. C.) According to Applicants, this transaction is a result of a business decision by James to permanently withdraw from the motor coach transportation business so that its principal can focus on transportation consulting activities. (Appl. 1-2.)<sup>5</sup> The application states that, under the terms of the agreement, Franmar will acquire the motor carrier assets of James (consisting of 28 motor coaches and 17 mini-motor coaches) and Express will acquire the non-motor carrier assets of James (consisting of customer lists, telephone numbers, website and related software, pending charter customer contracts and associated deposits, parts, equipment, supplies, and intangibles used by James in its charter business operation). (*Id.* at 2.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a

number, motor carrier number, and USDOT safety fitness rating—can be found in the application and the supplement. (See Appl. 6-7, 9; Suppl. 2-3, 6, June 21, 2023; see also Second Suppl., July 11, 2023 (clarifying information relating to James' interstate motor coach passenger operations).)

<sup>4</sup> Further information about the motor carriers controlled by the Tedescos—including their USDOT numbers, motor carrier numbers, and USDOT safety fitness ratings—can be found in the application and the supplement. (See Appl. 4-5, 7, 9; Suppl. 3-4, 7, 9-11, June 21, 2023.) According to Applicants, Lines operates interstate passenger commuter service and charter passenger service primarily in New York and New Jersey; Airport does not currently conduct any motor coach or transportation services but previously operated in New Jersey; and Bus (FL) operates interstate charter and contract motor coach passenger service primarily in North Carolina, South Carolina, Georgia, and Florida. (See Appl. 5, 7; Suppl. 10-11, June 21, 2023.) The operations of Express are described above.

<sup>5</sup> (See also Appl. 6-7; Suppl. 6, 8, June 21, 2023 (explaining that James will surrender its operating certificates and cease operations as a motor coach passenger transportation carrier).)

transaction that it finds consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges resulting from the proposed transaction, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), see 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross annual operating revenues of the involved carriers exceed \$2 million, see 49 CFR 1182.2(a)(5). (See Appl. 7-9; Suppl. 2-9, 11, June 21, 2023.)

Applicants assert that the proposed transaction is in the public interest because James is permanently withdrawing from the motor coach passenger transportation business and would sell its motor coach vehicles and related assets, which it no longer desires to operate, to Franmar and Express for continued use in the delivery of passenger motor coach transportation services. (Appl. 8.) No operable motor vehicles would be scrapped, and no new busses would need to be purchased by Franmar at this time, conserving metals and energy resources. (*Id.*) Applicants represent that the public would not lose service because the same number of buses will continue to operate. (*Id.*) Applicants also state that the transaction would promote efficiencies, competitive pricing, and exemplary service. (*Id.* at 8-9; see also *id.* at 3 (stating that the transaction would increase operating efficiencies, reduce operating costs, and promote greater economic use of existing transportation capital resources, maintaining service options to customers of both James and Express).) Applicants also assert that the proposed transaction would not result in an increase to fixed charges, as the proposed transaction is expected to be for cash. (*Id.* at 8.)

Additionally, Applicants assert that the proposed transaction would not adversely affect qualified employees at the locations from which James operates. (*Id.* at 9.) Applicants state that Express will interview and offer employment opportunities to those employees, which Applicants claim is "a necessity to permit Express to continue to operate the assets acquired as a carrier." (*Id.*)

According to Applicants, the proposed transaction would not adversely affect competition or the

adequacy of transportation offerings. Applicants state that Express will continue to provide the same level of services in all states in which it operates. (Suppl. 3, June 21, 2023.) Applicants further explain that, following the transaction, Express will offer substantially the same charter and contract transportation services currently provided by James, and that James' current motor coach fleet is sufficient in size to meet the requirements of James' charter and contract service customer base. (*Id.* at 3–5.) Thus, the transaction will have little or no impact on competing passenger charter and contract motor carriers because Express would simply be replacing James as the operator in the Richmond and Norfolk markets that James primarily serves, which, according to Applicants, are separate from the markets served by Express from Northern Virginia. (*Id.* at 6.) Applicants also assert that James' motor coach operations outside Virginia are “minimal, approximately 13% of total charter and contract operations”; state that the Express motor carrier affiliates (Lines, Airport, and Bus (FL)) do not conduct any regular and primary charter or contract passenger service operations in Virginia, the primary market in which James operates; and claim that due to these limiting factors, they do not anticipate that the acquisition of James' motor coach assets will have a substantial negative impact on competitors. (*Id.* at 6–7.)<sup>6</sup>

Based on Applicants' representations, the Board finds that the proposed acquisition is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

<sup>6</sup> The Board notes that the asset purchase agreement contains a non-compete agreement, which prohibits James and its affiliates (except for Stephen Story, whose arrangement is governed by a consulting agreement), for a period of time, from soliciting the customer client base sold to Express or otherwise competing with Express in the geographic areas in which James currently conducts business operations. (Appl., Ex. C art. 10.01.) After a review of the contractual provision, and based on the verified information submitted by Applicants regarding the limited amount of market overlap, the Board finds that the clause does not appear to have an anticompetitive effect, on balance, in the markets in which Applicants operate.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

*It is ordered:*

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.
2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.
3. This notice will be effective September 6, 2023, unless opposing comments are filed by September 5, 2023. If any comments are filed, Applicant may file a reply by September 19, 2023.
4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: July 17, 2023.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

**Eden Besera,**

*Clearance Clerk.*

[FR Doc. 2023–15531 Filed 7–20–23; 8:45 am]

**BILLING CODE 4915–01–P**

## **SURFACE TRANSPORTATION BOARD**

### **Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership**

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership.

**SUMMARY:** Effective immediately, the memberships of the PRB and ERB are as follows:

#### **Performance Review Board**

Craig Keats, Chairman  
Rachel Campbell, Member  
Mai Dinh, Member  
Danielle Gosselin (Alternate Member)

#### **Executive Resources Board**

Rachel Campbell, Chairman  
Danielle Gosselin, Member  
Janie Sheng Lee, Member  
Craig Keats (Alternate Member)

**FOR FURTHER INFORMATION CONTACT:** If you have any questions, please contact

Jennifer Layne at [jennifer.layne@stb.gov](mailto:jennifer.layne@stb.gov) or 202–245–0340.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. 2023–15514 Filed 7–20–23; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **Notice of Intent To Rule on a Land Release Request at Malden Regional Airport & Industrial Park (MAW), Malden, MO**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of request to release of airport land.

**SUMMARY:** The FAA proposes to rule and invites public comment on the request to release and sell a 1.42 acre parcel of federally obligated airport property at the Malden Regional Airport & Industrial Park (MAW), Malden, Missouri.

**DATES:** Comments must be received on or before August 21, 2023.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: David Blalock, Airport Manager, City of Malden Regional Airport & Industrial Park, 3077 Mitchell Drive, P.O. Box 411, Malden, MO 63863–0411, (573) 276–2279.

**FOR FURTHER INFORMATION CONTACT:** Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106, (816) 329–2603, [amy.walter@faa.gov](mailto:amy.walter@faa.gov). The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release a 1.42 acre parcel of airport property at the Malden Regional Airport & Industrial Park (MAW) under the provisions of 49 U.S.C. 47107(h)(2). This is a Surplus Property Airport. The City of Malden requested a release from the FAA to sell a 1.42 acre parcel to Kenneth W. Huey for commercial development. The FAA determined this