

The SEC is Enabling 24/7 Stock Trading Without the Conditions It Previously Put in Place to Protect Investors

By Benjamin Schiffrin | *Director of Securities Policy*

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Introduction

In December, Wells Fargo’s trading desk wrote a client note that called 24/7 stock trading “[literally the worst thing in the world](#).” That is because it will only blur the line between [investing and gambling](#). Around-the-clock stock trading is likely to turn securities exchanges into [casinos](#).

Still, the [one saving grace](#) when the Securities and Exchange Commission (SEC) approved the application of 24X National Exchange LLC (24X) to operate an overnight trading session was that it prevented 24X from commencing overnight trading until the requisite market infrastructure was in place. This was necessary, [according to the SEC](#), to ensure that there would be “transparency during these new, extended trading hours through the communication of quotations and transactions to market participants and investors.” However, in an [order](#) issued last month, the SEC said it would now allow overnight trading even without the necessary market infrastructure.

On Thursday, the SEC will host a [roundtable](#) regarding 24-hour stock trading and the preparedness for a 24-hour market. But if the SEC is determined to allow 24-hour trading to commence even when it admits the market would be unprepared, there seems to be little point to the roundtable. The SEC’s time would be better spent explaining why it is so eager to endanger investors by allowing overnight trading without the conditions it previously determined were necessary and appropriate “for the protection of investors and the maintenance of fair and orderly markets.”

The SEC’s Approval of an Overnight Trading Session

24X first filed its [application](#) with the SEC for registration as a national securities exchange on February 6, 2024. In addition to operating a trading session during the core market hours of 9:30 am to 4 pm, and extended hours trading sessions between 4 am and 9:30 am and between 4 pm and 8 pm, 24X sought to operate an overnight trading session between 8 pm and 4 am. Although other exchanges offered extended hours trading sessions in addition to trading sessions during core market hours, 24X would have been the first exchange to offer an overnight trading session.

On November 27, 2024, the SEC [approved](#) 24X’s registration as a national securities exchange. In doing so, it stated that 24X could not operate the overnight trading session until other market participants established the requisite market infrastructure for collecting, consolidating,



processing, and disseminating quotation and transaction information during overnight trading. The SEC found that the overnight trading session was consistent with the public interest and investor protection because it would not commence until this requisite market infrastructure was in place, which would ensure that trading during the overnight session would be “transparent.”

It was necessary for the requisite market infrastructure to be in place before overnight trading commenced, according to the SEC, “to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors’ orders in the best market.” This condition ensured that an overnight trading session would “operate with rules that are designed to protect investors consistent with the requirements of the federal securities laws and the rules and regulations thereunder.” The SEC stated explicitly that overnight trading could not commence “until the conditions outlined in this order have been met,” and that, if the requisite market infrastructure was not in place within 18 months of its order, 24X would have to “promptly file a proposed rule change to remove the rules that” would allow it to operate its proposed overnight trading session.

In explaining their support for approving 24X’s registration as a national securities exchange and its proposed overnight trading session, Commissioner Peirce and Commissioner Crenshaw [emphasized](#) that the SEC’s order “allows overnight trading to commence only after” the requisite market infrastructure is in place. This was necessary, in their view, because “market participants will need to make operational, software, and other changes to accommodate overnight trading.” Although Commissioner Peirce and Commissioner Crenshaw recognized that market participants might have questions “as they begin making the changes required to participate in an eventual overnight session,” and expressed the “hope” that the Commission would “consider whether a roundtable or an open comment file or both would be helpful in addressing these questions,” it is unclear whether having a roundtable almost two years later is exactly what they had in mind.

After the SEC conditionally approved 24X’s overnight trading session, the [New York Stock Exchange](#) and [Nasdaq](#) also sought to operate overnight trading sessions. The SEC approved these sessions but again on the condition that they not commence until the requisite market infrastructure was in place. This was necessary so that “trading overnight will be transparent.”

24X’s Request for Exemptive Relief

On December 15, 2025, more than a year after the SEC approved 24X’s overnight trading session on the condition that it not commence before the requisite market infrastructure was in place, 24X [requested](#) that the SEC eliminate this condition. 24X filed this request as the 18-month deadline for it to file a rule change to remove the rules that would allow it to operate the proposed overnight trading session if the requisite market infrastructure was not in place by that time was fast approaching. 24X sought an order that would allow it to commence trading in the overnight session without the requisite market infrastructure being in place to collect, consolidate, process, and disseminate quotation and transaction information during overnight trading—the exact condition the SEC imposed when approving 24X’s registration as a national securities exchange.

In its request, 24X stated that “it believed that 18 months from approval of its application for registration as a national securities exchange would be more than sufficient time” for the relevant market participants “to make the necessary technology changes . . . to allow for overnight trading.” Nonetheless, it said that it now believed the requisite infrastructure would not be in place until November or December of 2026, “well beyond the 18-month period anticipated when the Commission approved 24X as a national securities exchange.” Rather than filing a rule change to remove the rules that would allow it to operate the proposed overnight trading session, as contemplated in the SEC’s approval order in November 2024, 24X asked the SEC to allow it to commence overnight trading without the requisite market infrastructure being in place.

Numerous commenters objected to 24X’s request, from other [exchanges](#) to [brokers](#) to [academics](#). These commenters [said](#), for example, that without the requisite market infrastructure there would be no “independent, reliable source of market data” during overnight trading, which would be “especially important to retail investors given the likelihood of reduced liquidity and higher price volatility expected during overnight hours.” Because the SEC [conditioned](#) 24X’s ability to conduct an overnight trading session on the existence of market infrastructure that would enable market participants to “collect, consolidate, process and disseminate quotation and transaction information at all times during the overnight trading session,” the SEC “should not permit such an overnight trading session to occur unless and until those conditions are satisfied.”

The SEC’s Order on 24X’s Exemptive Application

Despite these concerns, the SEC issued an [order](#) that would allow overnight trading to commence without the requisite market infrastructure being in place. Although the SEC said it would not allow overnight trading to commence before December 6, 2026, when it believed the requisite market infrastructure would be in place, it said that if the requisite market infrastructure was still not in place by January 24, 2027, overnight trading could nonetheless commence then. The SEC granted this relief despite recognizing that the relief 24X sought was novel because “no national securities exchange currently operates its trading system” without the presence of market infrastructure responsible for “collecting, consolidating, processing and disseminating” market data.

According to the SEC, it was “in the public interest and consistent with the protection of investors” to grant this relief “to ensure investors will have access to overnight trading on a national securities exchange without further delay.” But in granting 24X’s application for registration as a national securities exchange, the SEC said that the only way to protect investors during overnight trading was for the requisite market infrastructure responsible for disseminating market data to be in place. It is inexplicable that the SEC would now say investors need to be able to trade overnight regardless of whether there exists the requisite market infrastructure that would protect them.

In its order, the SEC emphasized that it would allow overnight trading without the existence of the market infrastructure on which it had previously conditioned overnight trading only until July 2, 2027. The SEC stated that “the time to complete the implementation and the relief to allow 24X and investors to commence overnight trading on an exchange should not be needed any longer than July 2, 2027.” But 24X initially thought it would not take more than 18 months for the requisite



market infrastructure to be put in place. When it took longer than 18 months, it simply asked the SEC to relieve it of the condition that overnight trading not commence without the requisite market infrastructure. Given that the SEC then said it would in fact relieve 24X of that condition on January 24, 2027, there is no reason to believe the SEC will not extend the period in which overnight trading may take place without the existence of essential market infrastructure beyond July 2, 2027.

It remains to be seen whether the requisite market infrastructure will be in place by December 6, 2026. If it is, then overnight trading will not commence without the existence of the market infrastructure on which the SEC initially conditioned overnight trading. But that does not render the SEC's order sensible. All the SEC's order does is permit overnight trading without the existence of market infrastructure that the SEC said previously was needed to protect investors. Indeed, there was no reason for the SEC to say before December 6, 2026, that overnight trading may commence regardless of whether the requisite market infrastructure is in place by that date. All that does is reduce the incentive to get the requisite market infrastructure in place by then.

Once overnight trading commences, retail investors will need all the help they can get. The reduced trading volume that exchanges will likely experience during overnight sessions means retail investors will receive worse prices if they trade in the middle of the night. That is why the SEC previously conditioned overnight trading on the existence of market infrastructure that would increase transparency and allow investors to have access to essential market data overnight. There is no basis for the SEC to eliminate this condition now. All that does is endanger investors.

Conclusion

The SEC is hosting a roundtable to discuss the market's preparedness for 24/7 stock trading even though the SEC has announced that it will allow overnight trading to commence even if the market is unprepared. This just makes no sense. Rather than hosting a roundtable to discuss matters about which the SEC has already made up its mind, the SEC should explain why the ability to trade stocks on an exchange in the middle of the night is so urgent that it should commence without longstanding protections that exist during regular market hours—protections that the SEC previously determined were an essential condition for its initial approval of overnight trading.



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