

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-82049; File Nos. SR-BatsBYX-2017-11; SR-BatsBZX-2017-38; SR-BatsEDGA-2017-13; SR-BatsEDGX-2017-22; SR-BOX-2017-16; SR-BX-2017-023; SR-C2-2017-017; SR-CBOE-2017-040; SR-CHX-2017-08; SR-FINRA-2017-011; SR-GEMX-2017-17; SR-IEX-2017-16; SR-ISE-2017-45; SR-MIAX-2017-18; SR-MRX-2017-04; SR-NASDAQ-2017-046; SR-NYSE-2017-22; SR-NYSEArca-2017-52; SR-NYSEMKT-2017-26; SR-PEARL-2017-20; SR-PHLX-2017-37)

November 9, 2017

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Bats BZX Exchange, Inc.; Bats EDGA Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; Investors Exchange LLC; Miami International Securities Exchange, LLC; MIAX PEARL LLC; Nasdaq BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; Nasdaq PHLX LLC; The Nasdaq Stock Market LLC; New York Stock Exchange LLC; NYSE Arca, Inc. and NYSE MKT LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Changes to Establish Fees for Industry Members to Fund the Consolidated Audit Trail

On May 1, 2017,¹ May 2, 2017,² May 3, 2017,³ May 8, 2017,⁴ May 9, 2017,⁵ May 10, 2017,⁶ May 12, 2017,⁷ May 15, 2017,⁸ May 16, 2017,⁹ and May 23, 2017,¹⁰ Bats BYX

¹ Miami International Securities Exchange, LLC and MIAX PEARL LLC filed their proposed rule changes on May 1, 2017.

² The Nasdaq Stock Market LLC and Nasdaq BX, Inc. filed their proposed rule changes on May 2, 2017.

³ Chicago Stock Exchange, Inc. filed its proposed rule change on May 3, 2017.

⁴ Financial Industry Regulatory Authority, Inc. filed its proposed rule change on May 8, 2017.

⁵ Investors Exchange LLC originally filed its proposed rule change on May 3, 2017 under File No. SR-IEX-2017-13, and subsequently withdrew that filing and filed a proposed rule change on May 9, 2017.

⁶ The New York Stock Exchange LLC, NYSE Arca, Inc. and NYSE MKT LLC filed their proposed rule changes on May 10, 2017.

⁷ Nasdaq GEMX LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC and Nasdaq PHLX LLC originally filed their proposed rule changes on May 3, 2017 under File Nos. SR-GEMX-2017-11, SR-ISE-2017-40, SR-MRX-2017-03, and SR-PHLX-2017-35, and subsequently withdrew those filings and filed proposed rule changes on May 12, 2017.

Exchange, Inc. (“Bats BYX”) (n/k/a Cboe BYX Exchange, Inc.),¹¹ Bats BZX Exchange, Inc. (“Bats BZX”) (n/k/a Cboe BZX Exchange, Inc.),¹² Bats EDGA Exchange, Inc. (“Bats EDGA”) (n/k/a Cboe EDGA Exchange, Inc.),¹³ Bats EDGX Exchange, Inc. (“Bats EDGX”) (n/k/a Cboe EDGX Exchange, Inc.),¹⁴ BOX Options Exchange LLC (“BOX”), C2 Options Exchange, Incorporated (“C2”) (n/k/a Cboe C2 Options Exchange, Inc.),¹⁵ Chicago Board Options Exchange, Incorporated (“CBOE”) (n/k/a Cboe Exchange, Inc.),¹⁶ Chicago Stock Exchange, Inc.

⁸ BOX Options Exchange LLC originally filed its proposed rule change on May 11, 2017 under File No. SR-BOX-2017-15, and subsequently withdrew that filing and filed a proposed rule change on May 15, 2017.

⁹ Bats BYX Exchange, Inc., C2 Options Exchange, Incorporated and Chicago Board Options Exchange, Incorporated filed their proposed rule changes on May 16, 2017. Bats EDGA Exchange, Inc. originally filed its proposed rule change on May 5, 2017 under File No. SR-BatsEDGA-2017-11, and subsequently withdrew that filing on May 11, 2017 and filed a proposed rule change on May 16, 2017.

¹⁰ Bats BZX Exchange, Inc. filed its proposed rule changes on May 23, 2017. Bats EDGX Exchange, Inc. originally filed its proposed rule change on May 5, 2017 under File No. SR-BatsEDGX-2017-20, and subsequently withdrew that filing on May 10, 2017 and filed a proposed rule change on May 23, 2017.

¹¹ See Securities Exchange Act Release No. 81952 (October 26, 2017), 82 FR 50725 (November 1, 2017). The name change was not yet effective when Bats BYX filed SR-BatsBYX-2017-11.

¹² See Securities Exchange Act Release No. 81962 (October 26, 2017), 82 FR 50711 (November 1, 2017). The name change was not yet effective when Bats BZX filed SR-BatsBZX-2017-38.

¹³ See Securities Exchange Act Release No. 81957 (October 26, 2017), 82 FR 50716 (November 1, 2017). The name change was not yet effective when Bats EDGA filed SR-BatsEDGA-2017-13.

¹⁴ See Securities Exchange Act Release No. 81963 (October 26, 2017), 82 FR 50697 (November 1, 2017). The name change was not yet effective when Bats EDGX filed SR-BatsEDGX-2017-22.

¹⁵ See Securities Exchange Act Release No. 81979 (October 30, 2017), 82 FR 51317 (November 3, 2017). The name change was not yet effective when C2 filed SR-C2-2017-017.

¹⁶ See Securities Exchange Act Release No. 81981 (October 30, 2017), 82 FR 51309 (November 3, 2017). The name change was not yet effective when CBOE filed SR-CBOE-2017-040.

(“CHX”), Financial Industry Regulatory Authority, Inc. (“FINRA”), Investors Exchange LLC (“IEX”), Nasdaq ISE, LLC (“ISE”), Miami International Securities Exchange, LLC (“MIAX”), MIAX PEARL, LLC (“PEARL”), Nasdaq BX, Inc. (“BX”), Nasdaq GEMX, LLC (“GEMX”), Nasdaq MRX, LLC (“MRX”), Nasdaq PHLX LLC (“Phlx”), The Nasdaq Stock Market LLC (“Nasdaq”), New York Stock Exchange LLC (“NYSE”), NYSE Arca, Inc. (“NYSE Arca”) and NYSE MKT LLC (“NYSE MKT”) (n/k/a NYSE American LLC)¹⁷ (collectively, the “Participants”) filed with the Securities and Exchange Commission (the “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹⁸ and Rule 19b-4 thereunder,¹⁹ proposed rule changes to adopt fees to be charged to Industry Members to fund the consolidated audit trail (“CAT”).²⁰ The proposed rule changes were immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.²¹ The proposed rule changes submitted by MIAX and PEARL were published for comment in the Federal Register on

¹⁷ See Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017). The name change was not yet effective when NYSE MKT filed SR-NYSEMKT-2017-26.

¹⁸ 15 U.S.C. 78s(b)(1).

¹⁹ 17 CFR 240.19b-4.

²⁰ See infra notes 22-28. The National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”) was published for comment in the Federal Register on May 17, 2016, and approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release Nos. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016) (“CAT NMS Plan Notice”); 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (“CAT NMS Plan Approval Order”).

²¹ 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as “establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.” 15 U.S.C. 78s(b)(3)(A)(ii).

May 19, 2017.²² The proposed rule changes submitted by BX, CHX, IEX, Nasdaq, NYSE, NYSE Arca and NYSE MKT were published for comment in the Federal Register on May 22, 2017.²³ The proposed rule change submitted by FINRA was published for comment in the Federal Register on May 23, 2017.²⁴ The proposed rule changes submitted by BOX, GEMX, ISE, MRX and Phlx were published for comment in the Federal Register on May 24, 2017.²⁵ The proposed rule changes submitted by C2, CBOE and Bats EDGA were published for comment in the Federal Register on June 1, 2017.²⁶ The proposed rule change submitted by Bats BYX was published for comment in the Federal Register on June 5, 2017.²⁷ The proposed rule changes submitted by Bats BZX and Bats EDGX were published for comment in the Federal

²² See Securities Exchange Act Release Nos. 80675 (May 15, 2017), 82 FR 23100 (May 19, 2017) (SR-MIAX-2017-18); and 80676 (May 15, 2017), 82 FR 23083 (May 19, 2017) (SR-PEARL-2017-20).

²³ See Securities Exchange Act Release Nos. 80697 (May 16, 2017), 82 FR 23398 (May 22, 2017) (SR-BX-2017-023); 80691 (May 16, 2017), 82 FR 23344 (May 22, 2017) (SR-CHX-2017-08); 80692 (May 16, 2017), 82 FR 23325 (May 22, 2017) (SR-IEX-2017-16); 80696 (May 16, 2017), 82 FR 23439 (May 22, 2017) (SR-NASDAQ-2017-046); 80693 (May 16, 2017), 82 FR 23363 (May 22, 2017) (SR-NYSE-2017-22); 80698 (May 16, 2017), 82 FR 23457 (May 22, 2017) (SR-NYSEArca-2017-52); and 80694 (May 16, 2017), 82 FR 23416 (May 22, 2017) (SR-NYSEMKT-2017-26).

²⁴ See Securities Exchange Act Release No. 80710 (May 17, 2017), 82 FR 23639 (May 23, 2017) (SR-FINRA-2017-011).

²⁵ See Securities Exchange Act Release Nos. 80721 (May 18, 2017), 82 FR 23864 (May 24, 2017) (SR-BOX-2017-16); 80713 (May 18, 2017), 82 FR 23956 (May 24, 2017) (SR-GEMX-2017-17); 80715 (May 18, 2017), 82 FR 23895 (May 24, 2017) (SR-ISE-2017-45); 80726 (May 18, 2017), 82 FR 23915 (May 24, 2017) (SR-MRX-2017-04); and 80725 (May 18, 2017), 82 FR 23935 (May 24, 2017) (SR-PHLX-2017-37).

²⁶ See Securities Exchange Act Release Nos. 80786 (May 26, 2017), 82 FR 25474 (June 1, 2017) (SR-C2-2017-017); 80785 (May 26, 2017), 82 FR 25404 (June 1, 2017) (SR-CBOE-2017-040); and 80784 (May 26, 2017), 82 FR 25448 (June 1, 2017) (SR-BatsEDGA-2017-13).

²⁷ See Securities Exchange Act Release No. 80809 (May 30, 2017), 82 FR 25837 (June 5, 2017) (SR-BatsBYX-2017-11).

Register on June 6, 2017.²⁸ The Commission received seven comment letters on the proposed rule change,²⁹ and a response to comments from the Participants.³⁰ On June 30, 2017, the Commission temporarily suspended and initiated proceedings to determine whether to approve or disapprove the proposed rule changes.³¹ The Commission thereafter received seven comment

²⁸ See Securities Exchange Act Release Nos. 80822 (May 31, 2017), 82 FR 26148 (June 6, 2017) (SR-BatsBZX-2017-38); and 80821 (May 31, 2017), 82 FR 26177 (June 6, 2017) (SR-BatsEDGX-2017-22).

²⁹ Since the Participants' proposed rule changes to adopt fees to be charged to Industry Members to fund the consolidated audit trail are substantively identical, the Commission is considering all comments received on the proposed rule changes regardless of the comment file to which they were submitted. See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, Commission (dated June 6, 2017), available at: <https://www.sec.gov/comments/sr-batsbzx-2017-38/batsbzx201738-1788188-153228.pdf>; Letter from Patricia L. Cerny and Steven O'Malley, Compliance Consultants, to Brent J. Fields, Secretary, Commission (dated June 12, 2017), available at: <https://www.sec.gov/comments/sr-cboe-2017-040/cboe2017040-1799253-153675.pdf>; Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc., to Eduardo A. Aleman, Assistant Secretary, Commission (dated June 13, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-1801717-153703.pdf>; Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Brent J. Fields, Secretary, Commission (dated June 22, 2017), available at: <https://www.sec.gov/comments/sr-cboe-2017-040/cboe2017040-1819670-154195.pdf>; Letter from Stuart J. Kaswell, Executive Vice President and Managing Director, General Counsel, Managed Funds Association, to Brent J. Fields, Secretary, Commission (dated June 23, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-1822454-154283.pdf>; and Letter from Suzanne H. Shatto, Investor, to Commission (dated June 27, 2017), available at: <https://www.sec.gov/comments/sr-batsedgx-2017-22/batsedgx201722-154443.pdf>. The Commission also received a comment letter which is not pertinent to these proposed rule changes. See Letter from Christina Crouch, Smart Ltd., to Brent J. Fields, Secretary, Commission (dated June 5, 2017), available at: <https://www.sec.gov/comments/sr-batsbzx-2017-38/batsbzx201738-1785545-153152.htm>.

³⁰ See Letter from CAT NMS Plan Participants to Brent J. Fields, Secretary, Commission (dated June 29, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-1832632-154584.pdf>.

³¹ See Securities Exchange Act Release No. 81067 (June 30, 2017), 82 FR 31656 (July 7, 2017).

letters,³² and a response to comments from the Participants.³³ NYSE, NYSE Arca and NYSE MKT filed Amendment No. 1 to their proposed rule changes on October 25, 2017. IEX filed Amendment No. 1 to its proposed rule change on October 31, 2017. On November 3, 2017, Bats BYX, Bats BZX, Bats EDGA, Bats EDGX, CBOE and C2 filed Amendment No. 1 to their proposed rule changes. Nasdaq, BX, Phlx, ISE, MRX, and GEMX filed Amendment No. 1 to their proposed rule changes on November 6, 2017. On November 7, 2017, BOX, MIAX and PEARL filed Amendment No. 1 to their proposed rule changes.

Section 19(b)(2) of the Act³⁴ provides that, after instituting proceedings, the Commission shall issue an order approving or disapproving a proposed rule change not later than 180 days

³² See Letter from W. Hardy Callcott, Partner, Sidley Austin LLP, to Brent J. Fields, Secretary, Commission (dated July 27, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2148338-157737.pdf>; Letter from Kevin Coleman, General Counsel and Chief Compliance Officer, Belvedere Trading LLC, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2148360-157740.pdf>; Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2151228-157745.pdf>; Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2150977-157744.pdf>; Letter from Stuart J. Kaswell, Executive Vice President and Managing Director, General Counsel, Managed Funds Association, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2150818-157743.pdf>; Letter from John Kinahan, Chief Executive Officer, Group One Trading, L.P., to Brent J. Fields, Secretary, Commission (dated August 10, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-2214568-160619.pdf>; Letter from Joseph Molluso, Executive Vice President and CFO, Virtu Financial, to Brent J. Fields, Commission (dated August 18, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-2238648-160830.pdf>.

³³ See Letter from Michael Simon, Chair, CAT NMS Plan Operating Committee, to Brent J. Fields, Commission, Secretary (dated November 2, 2017), available at <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2674608-161412.pdf>.

³⁴ 15 U.S.C 78s(b)(2).

after the date of publication of notice of filing of the proposed rule change.³⁵ The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.³⁶ The 180th day for the proposed rule changes published in the Federal Register on May 19, 2017,³⁷ is November 15, 2017. The 180th day for the proposed rule changes published in the Federal Register on May 22, 2017,³⁸ is November 18, 2017. The 180th day for the proposed rule change published in the Federal Register on May 23, 2017,³⁹ is November 19, 2017. The 180th day for the proposed rule changes published in the Federal Register on May 24, 2017,⁴⁰ is November 20, 2017. The 180th day for the proposed rule changes published in the Federal Register on June 1, 2017,⁴¹ is November 28, 2017. The 180th day for the proposed rule change published in the Federal Register on June 5, 2017,⁴² is December 2, 2017. The 180th day for the proposed rule changes published in the Federal Register on June 6, 2017,⁴³ is December 3, 2017.

The Commission is extending the 180-day time period for Commission action on each of the proposed rule changes. The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule changes so that it has sufficient time to consider the proposed rule changes, the issues raised in the comment letters

³⁵ 15 U.S.C. 78s(b)(2)(B)(ii)(I).

³⁶ 15 U.S.C. 78s(b)(2)(B)(ii)(II)(aa).

³⁷ See supra note 22.

³⁸ See supra note 23.

³⁹ See supra note 24.

⁴⁰ See supra note 25.

⁴¹ See supra note 26.

⁴² See supra note 27.

⁴³ See supra note 28.

that have been submitted in connection therewith, the Participants' response to the comments, and the amendments to the proposed rule changes.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁴⁴ designates January 14, 2018 as the date by which the Commission shall either approve or disapprove the proposed rule changes (File Nos. SR-BatsBYX-2017-11; SR-BatsBZX-2017-38; SR-BatsEDGA-2017-13; SR-BatsEDGX-2017-22; SR-BOX-2017-16; SR-BX-2017-023; SR-C2-2017-017; SR-CBOE-2017-040; SR-CHX-2017-08; SR-FINRA-2017-011; SR-GEMX-2017-17; SR-IEX-2017-16; SR-ISE-2017-45; SR-MIAX-2017-18; SR-MRX-2017-04; SR-NASDAQ-2017-046; SR-NYSE-2017-22; SR-NYSEArca-2017-52; SR-NYSEMKT-2017-26; SR-PEARL-2017-20; SR-PHLX-2017-37).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Eduardo A. Aleman
Assistant Secretary

⁴⁴ 15 U.S.C. 78s(b)(2).

⁴⁵ 17 CFR 200.30-3(a)(57).