

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-93437; File Nos. SR-BX-2021-018; SR-C2-2021-008; SR-CBOE-2021-030; SR-CboeBYX-2021-011; SR-CboeBZX-2021-034; SR-CboeEDGA-2021-010; SR-CboeEDGX-2021-024; SR-GEMX-2021-03; SR-ISE-2021-08; SR-MRX-2021-05; SR-NASDAQ-2021-029; SR-PHLX-2021-25)

October 27, 2021

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe C2 Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc., Cboe Exchange, Inc.; NASDAQ BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; NASDAQ PHLX LLC and The NASDAQ Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Changes to Adopt a Fee Schedule to Establish Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

On April 21, 2021, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC (collectively, the “Nasdaq and Cboe Participants”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,²

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule changes³ to adopt a fee schedule to establish fees for Industry Members⁴ related to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”).⁵ The proposed rule changes were immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.⁶ The proposed rule changes were published for comment in the Federal Register on May 10, 2021.⁷ On June 17, 2021, the Commission temporarily suspended and initiated proceedings to determine whether to approve or disapprove the proposed rule changes.⁸ The Commission has received no comments on the proposed rule changes.

³ Securities Exchange Act Release Nos. 91750 (May 4, 2021), 86 FR 25045 (May 10, 2021) (SR-BX-2021-018); 91751 (May 4, 2021), 86 FR 24941 (May 10, 2021) (SR-PHLX-2021-25); 91752 (May 4, 2021), 86 FR 24921 (May 10, 2021) (SR-NASDAQ-2021-029); 91753 (May 4, 2021), 86 FR 24994 (May 10, 2021) (SR-MRX-2021-05); 91755 (May 4, 2021), 86 FR 25035 (May 10, 2021) (SR-ISE-2021-08); 91756 (May 4, 2021), 86 FR 24979 (May 10, 2021) (SR-GEMX-2021-03); 91757 (May 4, 2021), 86 FR 24911 (May 10, 2021) (SR-C2-2021-008); 91758 (May 4, 2021), 86 FR 25004 (May 10, 2021) (SR-CboeEDGX-2021-024); 91759 (May 4, 2021), 86 FR 24956 (May 10, 2021) (SR-CboeEDGA-2021-010); 91760 (May 4, 2021), 86 FR 24966 (May 10, 2021) (SR-CBOE-2021-030); 91761 (May 4, 2021), 86 FR 25016 (May 10, 2021) (SR-CboeBYX-2021-011); and 91762 (May 4, 2021), 86 FR 24931 (May 10, 2021) (SR-CboeBZX-2021-034).

⁴ The CAT NMS Plan defines “Industry Member” as “a member of a national securities exchange or a member of a national securities association.” See CAT NMS Plan, infra note 5, at Section 1.1.

⁵ The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and the rules and regulations thereunder. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

⁶ 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).

⁷ See supra note 3.

⁸ Securities Exchange Act Release No. 92207, 86 FR 33448 (June 24, 2021).

Section 19(b)(2) of the Act⁹ provides that, after instituting proceedings, the Commission shall issue an order approving or disapproving a proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change.¹⁰ 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.¹¹ The 180th day for the proposed rule changes is November 6, 2021.

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.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹² designates January 5, 2022 as the date by which the Commission shall either approve or disapprove the

⁹ 15 U.S.C 78s(b)(2).

¹⁰ 15 U.S.C. 78s(b)(2)(B)(ii)(I).

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

¹² 15 U.S.C. 78s(b)(2).

proposed rule changes (File Nos. SR-BX-2021-018; SR-C2-2021-008; SR-CBOE-2021-030; SR-CboeBYX-2021-011; SR-CboeBZX-2021-034; SR-CboeEDGA-2021-010; SR-CboeEDGX-2021-024; SR-GEMX-2021-03; SR-ISE-2021-08; SR-MRX-2021-05; SR-NASDAQ-2021-029; SR-PHLX-2021-25).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(57).