

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-93814; 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)

December 17, 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 Withdrawal of 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 BYX”), Cboe BZX Exchange, Inc. (“Cboe BZX”), Cboe C2 Exchange, Inc. (“C2”), Cboe EDGA Exchange, Inc. (“Cboe EDGA”), Cboe EDGX Exchange, Inc. (“Cboe EDGX”), Cboe Exchange, Inc. (“Cboe”), NASDAQ BX, Inc. (“BX”), Nasdaq GEMX, LLC (“GEMX”), Nasdaq ISE, LLC (“ISE”), Nasdaq MRX, LLC (“MRX”), NASDAQ PHLX LLC (“Phlx”), The NASDAQ Stock Market LLC (“Nasdaq”) 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 proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the proposed rule changes and instituted proceedings to determine whether to approve or

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). The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (“Company”). On August 29, 2019, the Participants replaced the CAT NMS Plan in its entirety with the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC, which became the Company. See Securities Exchange Act Release No. 87149 (September 27, 2019), 84 FR 52905. The latest version of the CAT NMS Plan is available at <https://catnmsplan.com/about-cat/cat-nms-plan>.

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.

disapprove the proposed rule changes.⁸ On October 27, 2021, the Commission designated a longer period within which to conclude proceedings regarding the proposed rule changes.⁹ The Commission has received no comments on the proposed rule changes.

On December 10, 2021, Nasdaq, BX, ISE, GEMX, MRX and Phlx withdrew their proposed rule changes (SR-BX-2021-018, SR-NASDAQ-2021-029, SR-ISE-2021-08, SR-GEMX-2021-03, SR-MRX-2021-05, SR-PHLX-2021-25). On December 16, 2021, Cboe BYX, Cboe BZX, C2, Cboe, Cboe EDGA and Cboe EDGX withdrew their proposed rule changes (SR-CboeBYX-2021-011, SR-CboeBZX-2021-034, SR-C2-2021-008, SR-CBOE-2021-030, SR-CboeEDGA-2021-010, SR-Cboe-EDGX-2021-024).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

J. Matthew DeLesDernier
Assistant Secretary

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

⁹ Securities Exchange Act Release No. 93437, 86 FR 60524 (November 2, 2021).

¹⁰ 17 CFR 200.30-3(a)(12).