

November 20, 2019

**VIA HAND DELIVERY**

Vanessa Countryman  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail

Dear Ms. Countryman:

The Participants<sup>1</sup> in the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”)<sup>2</sup> propose to amend the Plan pursuant to Rule 608 of Regulation NMS (“Rule 608”)<sup>3</sup> under the Securities Exchange Act of 1934 (“Exchange Act”).<sup>4</sup> As described more fully below, the proposed amendment would revise data reporting requirements for the Firm Designated ID. In conjunction with these proposed amendments to the CAT NMS Plan, each Participant intends to file with the Securities and Exchange Commission (“SEC” or “Commission”) corresponding proposed changes to their CAT Compliance Rules. This letter amends and replaces in its entirety the original letter submitted to the SEC on September 26, 2019.<sup>5</sup>

**Requirements Pursuant to Rule 608(a)**

**A. Description of the Amendments to the CAT NMS Plan**

Section 1.1 of the CAT NMS Plan defines the term “Firm Designated ID” to mean “a unique identifier for each trading account designated by Industry Members for purposes of

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<sup>1</sup> The twenty-four Participants of the CAT NMS Plan are: BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc. and Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC; and New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc. and NYSE National, Inc.

<sup>2</sup> The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. *See* Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 Fed. Reg. 84696 (Nov. 23, 2016). The full text of the CAT NMS Plan is available at [www.catnmsplan.com](http://www.catnmsplan.com).

<sup>3</sup> 17 C.F.R. § 242.608.

<sup>4</sup> Unless otherwise defined herein, capitalized terms are defined as set forth in the CAT NMS Plan.

<sup>5</sup> Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, SEC re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (Sept. 26, 2019).

providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.” As discussed in more detail below, the Participants propose to amend the requirements for Firm Designated IDs in two ways: (1) to prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.

## **1. Prohibit Use of Account Numbers**

The Participants believe that the use of account numbers as the Firm Designated ID could give rise to additional security risks related to CAT Data. By prohibiting the use of account numbers as Firm Designated IDs, the Participants intend to limit the potential capture of sensitive data in the CAT that could be used to effect an unauthorized transaction in an account.

The Participants propose to prohibit the use of account numbers as the Firm Designated ID solely for trading accounts that are not proprietary accounts. After discussions with the industry, the Participants believe that each Industry Member must make its own risk determination as to whether it believes it is necessary to mask the actual account number for any proprietary account of the Industry Member when reporting the Firm Designated ID to CAT.

Accordingly, the Participants propose to amend the definition of a “Firm Designated ID” in Section 1.1 to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: “provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.”<sup>6</sup>

## **2. Persistent Firm Designated ID**

The CAT NMS Plan currently requires that the Firm Designated ID assigned by an Industry Member to a trading account be unique for each account for each business date. The Participants believe, however, that the Firm Designated ID assigned by an Industry Member to a trading account should be persistent over time, not for each business day.<sup>7</sup> With this change, a single account could be tracked across time within a single Industry Member using the Firm Designated ID. Without such a change, such tracking would only be possible using Customer

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<sup>6</sup> Appendix C of the CAT NMS Plan noted that broker-dealers would be permitted to use an account number as the Firm Designated ID. Section A, Appendix C, CAT NMS Plan at C-8. The Participants do not propose to amend this statement in Section A of Appendix C of the CAT NMS Plan as it is a one-time report addressing “the requirements set forth in SEC Rule 613(a)(1)(i) through (a)(1)(vi) that the ‘Participants specify and explain the choices they made to meet the requirements specified in [SEC Rule 613] for the [CAT].’” Appendix C of the CAT NMS Plan at C-1.

<sup>7</sup> If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

information. Accordingly, the proposed persistence requirement would enhance the regulatory utility of the order and transaction data without accessing Customer information.

To effect this change, the Participants propose to amend the definition of “Firm Designated ID” in Section 1.1 of the CAT NMS Plan to add “and persistent” after “unique” and delete “for each business date” so that the definition of “Firm Designated ID” would read, in relevant part, as follows:

a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member.

Together with adding a requirement of persistence to the Firm Designated ID definition, deleting “for each business date” would make clear that the same, unique Firm Designated ID must be used by an Industry Member for a trading account over time, which will facilitate the regulatory use of CAT Data by searching with the Firm Designated ID.

**B. Governing or Constituent Documents**

Not applicable.

**C. Implementation of Amendment**

The Participants propose to implement the Firm Designated ID with the commencement of Industry Member CAT reporting.

**D. Development and Implementation Phases**

The Participants propose to implement the Firm Designated ID with the commencement of Industry Member CAT reporting.

**E. Analysis of Impact on Competition**

The Participants do not believe the proposed amendments will have any impact on competition. The proposed amendments would revise the data reporting requirements for the Firm Designated ID.

**F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan**

Not applicable.

**G. Approval by Plan Sponsors in Accordance with Plan**

Section 12.3 of the CAT NMS Plan states that, subject to certain exceptions, the Plan may be amended from time to time only by a written amendment, authorized by the affirmative vote of not less than two-thirds of all of the Participants, that has been approved by the SEC

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pursuant to Rule 608 or has otherwise become effective under Rule 608. The Participants, by a vote of the Operating Committee taken on September 26, 2016, has authorized the filing of this proposed amendment with the SEC in accordance with the Plan.

**H. Description of Operation of Facility Contemplated by the Proposed Amendment**

Not applicable.

**I. Terms and Conditions of Access**

Not applicable.

**J. Method and Frequency of Processor Evaluation**

Not applicable.

**K. Dispute Resolution**

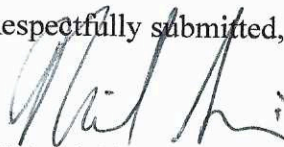
Not applicable.

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Thank you for your attention to this matter. Please contact me at (212) 229-2455 if you have any questions or comments.

Respectfully submitted,



Michael Simon  
CAT NMS Plan Operating Committee Chair

cc: The Hon. Jay Clayton, Chairman  
The Hon. Robert J. Jackson, Jr., Commissioner  
The Hon. Allison Herren Lee, Commissioner  
The Hon. Hester M. Peirce, Commissioner  
The Hon. Elad L. Roisman, Commissioner  
Mr. Brett Redfearn, Director, Division of Trading and Markets  
Mr. David S. Shillman, Associate Director, Division of Trading and Markets  
Mr. David Hsu, Assistant Director, Division of Trading and Markets  
Mr. Mark Donohue, Senior Policy Advisor, Division of Trading and Markets  
Ms. Manisha Kimmel, Senior Policy Advisor, Regulatory Reporting to Chairman Clayton  
CAT NMS Plan Participants

**APPENDIX**

[additions underlined; deletions bracketed]

**LIMITED LIABILITY COMPANY AGREEMENT OF CONSOLIDATED AUDIT  
TRAIL, LLC**

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**ARTICLE I**

**Section 1.1. Definitions.** As used throughout this Agreement (including, for the avoidance of doubt, the Exhibits, Appendices, Attachments, Recitals and Schedules identified in this Agreement):

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“Firm Designated ID” means a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member [for each business date]; provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.

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