

March 19, 2020

**VIA HAND DELIVERY**

Brett Redfearn  
Director, Division of Trading and Markets  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: COVID-19 Pandemic Relief: Temporary Delay in Near Term CAT Compliance Dates

Dear Mr. Redfearn:

The Participants<sup>1</sup> in the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan” or “Plan”)<sup>2</sup> appreciate the staff of the Securities and Exchange Commission’s Division of Trading and Markets (“Division”) grant of no-action relief to the Participants from enforcing their CAT Compliance Rules with regard to consolidated audit trail (“CAT”) implementation deadlines against Industry Members through May 20, 2020.<sup>3</sup> The Participants agree with the Division that this immediate relief is an important step toward addressing CAT issues related to the national emergency caused by the coronavirus, COVID-19.

Following the Division’s March 16 No-Action Relief Letter, the Participants have received many questions from Industry Members and have been closely watching the rapid developments related to COVID-19, including the recent presidential declaration of a national emergency related to the pandemic, and believe that additional staff no-action relief is warranted. The CAT has been available for testing by Industry Members since December 2019 and will be ready to accept CAT reports from Industry Members as of April 20, 2020. In addition, the Participants understand that Industry Members have been preparing to commence reporting equities to the CAT by April 20, 2020 and options by May 18, 2020, including satisfying various testing and other requirements necessary to commence such reporting.

In continuing discussions with the CAT Advisory Committee and the industry more broadly, the Participants have been told by these firms that the current extreme market volatility paired with the significant personnel disruptions caused by the Industry Members’ pandemic mitigation measures will hinder or prevent some Industry Members from completing the

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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. (“FINRA”); 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 Limited Liability Company Agreement of Consolidated Audit Trail, LLC is the CAT NMS Plan. Unless otherwise noted, capitalized terms are used as defined in Rule 613, in the CAT NMS Plan, or in this letter.

<sup>3</sup> Letter from Brett Redfearn, Director, Division of Trading and Markets, SEC, to Michael Simon, CAT NMS Plan Operating Committee Chair re: No-Action Letter: Consolidated Audit Trail Reporting (Mar. 16, 2020) (available at <https://www.sec.gov/divisions/marketreg/mr-noaction/2020/consolidated-audit-trail-reporting-031620.pdf>) (“March 16 No-Action Relief Letter”).

necessary system and other changes necessary for them to commence reporting for equities to the CAT by April 20, 2020, or for options by May 18, 2020. While the Division's March 16 No-Action Relief is most welcome, for the reasons described above, industry groups (namely, the Securities Industry and Financial Markets Association ("SIFMA") and Financial Information Forum ("FIF")) have requested further extensions of CAT implementation dates for at least 60 days.<sup>4</sup> In support of the financial industry's current prioritization of maintaining operations and serving clients during the national emergency, the Participants therefore request additional time for the Industry Members to prepare for the commencement of reporting.

In light of these exigent circumstances and based on the industry's representations, the Participants request that the Division provide additional no-action relief from Section 19(g)(1) of the Securities Exchange Act of 1934 and Rule 608(c) of Regulation NMS to the Participants from enforcing CAT Equities Phase 2a implementation deadlines against Industry Members through Monday, June 22, 2020, and from enforcing CAT Options Phase 2b implementation deadlines against Industry Members through Monday, July 20, 2020.<sup>5</sup> Subject to the receipt of the requested no-action relief, the Participants note that they also would not enforce their CAT Compliance Rules generally during this period, including, without limitation, applicable reporting error rates and compliance thresholds for Industry Members that begin reporting during the no-action periods.

The Participants believe that this no-action request is narrowly tailored to address the immediate concerns presented by the pandemic. In addition, based on currently available information, the Participants understand that FINRA CAT, LLC, the Plan Processor for the CAT, will be able to meet its upcoming system build and production dates, and that the Participants will continue reporting to the CAT. The Participants will continue to monitor the COVID-19 pandemic and its effect on Industry Members and the industry as a whole and to evaluate whether any additional changes could potentially be necessary in the future.

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<sup>4</sup> See, e.g., Letter from Chris Bok, Director, FIF, to Michael Simon, CAT NMS Plan Operating Chair re: FIF Request for an Immediate Pause of initial CAT Phase 2a and CAT Phase 2b Milestones (Mar. 16, 2020); Letter from Kenneth E. Bentsen, Jr., President and CEO, SIFMA, to The Honorable Jay Clayton, Chairman, SEC re: Consolidated Audit Trail (Mar. 16, 2020).

<sup>5</sup> Accordingly, Phase 2a and Phase 2b reporting would commence on June 22, 2020 and July 20, 2020, respectively, and all related dates that are part of Phase 2a and Phase 2b implementation would be extended consistent with the existing implementation timeframes.

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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. Allison Herren Lee, Commissioner  
The Hon. Hester M. Peirce, Commissioner  
The Hon. Elad L. Roisman, Commissioner  
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