



Martha Redding
Associate General Counsel
Assistant Secretary

New York Stock Exchange

November 29, 2017

VIA E-MAIL

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Securities Exchange Act Rel. 34-80693 (SR-NYSE-2017-22)

Dear Mr. Fields:

NYSE LLC, Inc. filed the attached Amendment No. 2 to the above-referenced filing on November 29, 2017.

Sincerely,

A handwritten signature in blue ink, appearing to be "B. Fields", written in a cursive style.

(Encl. Amendment No. 2 to SR-NYSE-2017-22)

Required fields are shown with yellow backgrounds and asterisks.

Filing by New York Stock Exchange LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend the NYSE Price List to adopt the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date Senior Counsel

By

(Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² on May 3, 2017, the New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with Securities and Exchange Commission (“Commission” or “SEC”) proposed rule change SR-NYSE-2017-22 (the “Original Proposal”), pursuant to which NYSE proposed to amend the NYSE Price List (“Price List”) to adopt the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).³ On October 25, 2017, NYSE filed an amendment to the Original Proposal (“First Amendment”). The Exchange files this proposed rule change (the “Second Amendment”) to amend the Original Proposal, as amended by the First Amendment.

With this Second Amendment, the Exchange is including Exhibit 4, which reflects the changes to the text of the proposed rule change as set forth in the First Amendment, and Exhibit 5, which reflects all proposed changes to the Exchange’s current rule text.

- (b) Not applicable.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Samir Patel
Senior Counsel
NYSE Group, Inc.
[REDACTED]

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, the CAT Compliance Rule or in the CAT NMS Plan.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

BOX Options Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (“FINRA”), 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 American LLC, NYSE Arca, Inc. and NYSE National, Inc.⁴ (collectively, the “Participants”) filed with the Commission, pursuant to Section 11A of the Exchange Act⁵ and Rule 608 of Regulation NMS thereunder,⁶ the CAT NMS Plan.⁷ The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the Federal Register on May 17, 2016,⁸ and approved by the Commission, as modified, on November 15, 2016.⁹ The Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities,

⁴ Note that Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., LLC, C2 Options Exchange, Incorporated, and Chicago Board Options Exchange, Incorporated, have been renamed Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., respectively.

⁵ 15 U.S.C. 78k-1.

⁶ 17 CFR 242.608.

⁷ See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁸ Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 Fed. Reg. 30614 (May 17, 2016).

⁹ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 Fed. Reg. 84696 (Nov. 23, 2016) (“Approval Order”).

across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the “Company”), of which each Participant is a member, to operate the CAT.¹⁰ Under the CAT NMS Plan, the Operating Committee of the Company (“Operating Committee”) has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (“CAT Fees”).¹¹ The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.¹² Accordingly, the Exchange submitted the Original Proposal to adopt the Consolidated Audit Trail Funding Fees, which would require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.

The Commission published the Original Proposal for public comment in the Federal Register on May 22, 2017,¹³ and received comments in response to the Original Proposal or similar fee filings by other Participants.¹⁴ On June 30, 2017, the Commission suspended, and instituted proceedings to determine whether to approve or disapprove, the Original Proposal.¹⁵ The Commission received seven comment letters in response to those proceedings.¹⁶

¹⁰ The Plan also serves as the limited liability company agreement for the Company.

¹¹ Section 11.1(b) of the CAT NMS Plan.

¹² *Id.*

¹³ Securities Exchange Act Rel. No. 80693 (May 16, 2017), 82 Fed. Reg. 23363 (May 22, 2017) (SR-NYSE-2017-22).

¹⁴ For a summary of comments, *see generally* Securities Exchange Act Rel. No. 81067 (June 30, 2017), 82 Fed. Reg. 31656 (July 7, 2017) (“Suspension Order”).

¹⁵ Suspension Order.

¹⁶ *See* Letter from Stuart J. Kaswell, Executive Vice President, Managing Director and General Counsel, Managed Funds Association, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“MFA Letter”); Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“SIFMA Letter”); Joanna Mallers, Secretary, FIA Principal Traders Group, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“FIA Principal Traders Group Letter”); Letter from Kevin Coleman, General Counsel & Chief Compliance Officer, Belvedere Trading LLC, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“Belvedere Letter”); Letter from W. Hardy Callcott, Sidley Austin LLP, to Brent J. Fields, Secretary, SEC (July 27, 2017) (“Sidley Letter”);

In response to the comments on the Original Proposal, the Operating Committee determined to make the following changes to the funding model: (1) add two additional CAT Fee tiers for Equity Execution Venues; (2) discount the market share of Execution Venue ATSs exclusively trading OTC Equity Securities as well as the market share of the FINRA over-the-counter reporting facility (“ORF”) by the average shares per trade ratio between NMS Stocks and OTC Equity Securities (calculated as 0.17% based on available data from the second quarter of June 2017) when calculating the market share of Execution Venue ATS exclusively trading OTC Equity Securities and FINRA; (3) discount the Options Market Maker quotes by the trade to quote ratio for options (calculated as 0.01% based on available data for June 2016 through June 2017) when calculating message traffic for Options Market Makers; (4) discount equity market maker quotes by the trade to quote ratio for equities (calculated as 5.43% based on available data for June 2016 through June 2017) when calculating message traffic for equity market makers; (5) decrease the number of tiers for Industry Members (other than the Execution Venue ATSs) from nine to seven; (6) change the allocation of CAT costs between Equity Execution Venues and Options Execution Venues from 75%/25% to 67%/33%; (7) adjust tier percentages and recovery allocations for Equity Execution Venues, Options Execution Venues and Industry Members (other than Execution Venue ATSs); (8) focus the comparability of CAT Fees on the individual entity level, rather than primarily on the comparability of affiliated entities; (9) commence invoicing of CAT Reporters as promptly as possible following the latest of the operative date of the Consolidated Audit Trail Funding Fees for each of the Participants and the operative date of the CAT NMS Plan amendment adopting CAT Fees for Participants; and (10) require the proposed fees to automatically expire two years from the operative date of the CAT NMS Plan amendment adopting CAT Fees for Participants. On October 25, 2017, the Exchange filed the First Amendment and proposed to amend the Original Proposal to reflect these changes.

NYSE submits this Second Amendment to the revise the proposal as set forth in the First Amendment to discount the OTC Equity Securities market share of all Execution Venue ATSs trading OTC Equity Securities, rather than applying the discount solely to those Execution Venue ATSs that exclusively trade OTC Equity Securities, when calculating the market share of Execution Venue ATS trading OTC Equity Securities. As discussed in the First Amendment:

The Operating Committee determined to discount the market share of Execution Venue ATSs exclusively trading OTC Equity Securities as well as the market share of the FINRA ORF in

Letter from John Kinahan, Chief Executive Officer, Group One Trading, L.P., to Brent J. Fields, Secretary, SEC (Aug. 10, 2017) (“Group One Letter”); and Letter from Joseph Molluso, Executive Vice President, Virtu Financial, to Brent J. Fields, Secretary, SEC (Aug. 18, 2017) (“Virtu Financial Letter”).

recognition of the different trading characteristics of the OTC Equity Securities market as compared to the market in NMS Stocks. Many OTC Equity Securities are priced at less than one dollar—and a significant number at less than one penny—per share and low-priced shares tend to trade in larger quantities.

Accordingly, a disproportionately large number of shares are involved in transactions involving OTC Equity Securities versus NMS Stocks. Because the proposed fee tiers are based on market share calculated by share volume, Execution Venue ATSS exclusively trading OTC Equity Securities and FINRA would likely be subject to higher tiers than their operations may warrant.¹⁷

The Operating Committee believes that this argument applies equally to both Execution Venue ATSS exclusively trading OTC Equity Securities and to Execution Venue ATSS that trade OTC Equity Securities as well as other securities. Accordingly, NYSE proposes to amend paragraph (b)(2) of the Consolidated Audit Trail Funding Fees to apply the discount to all Execution Venue ATSS trading OTC Equity Securities. Specifically, the Exchange proposes to change the parenthetical regarding the OTC Equity Securities discount in paragraph (b)(2) of the proposed fee schedule from “with a discount for Equity ATSS exclusively trading OTC Equity Securities based on the average shares per trade ratio between NMS Stocks and OTC Equity Securities” to “with a discount for OTC Equity Securities market share of Equity ATSS trading OTC Equity Securities based on the average shares per trade ratio between NMS Stocks and OTC Equity Securities.”

Additionally, the Exchange proposes to delete footnote 45 in Section 3(a) on page 23 of the First Amendment as the footnote is erroneous and was included inadvertently.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,¹⁸ because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. The Exchange believes the proposed rule change is also consistent with Section 6(b)(5) of the Act,¹⁹ which requires, among other things, that the Exchange’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,

¹⁷ See SR-NYSE-2017-22, Amendment 1, Section 3(a), at page 23.

¹⁸ 15 U.S.C. 78f(b)(4).

¹⁹ 15 U.S.C. 78f(b)(6).

and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange believes that the proposed rule change is consistent with the Act, and that the proposed fees are reasonable, equitably allocated and not unfairly discriminatory. In particular, the Exchange believes that the proposed rule change would treat all Equity ATSS trading OTC Equity Securities in a comparable manner when calculating applicable fees. In addition, the proposed fee structure would take into consideration distinctions in securities trading operations of CAT Reporters, including all ATSS trading OTC Equity Securities.

4. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁰ require that the Exchange's rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed rule change is structured to impose comparable fees on similarly situated CAT Reporters. The Exchange believes that the proposed rule change would treat all Equity ATSS trading OTC Equity Securities in a comparable manner when calculating applicable fees. In addition, the proposed rule change would take into consideration distinctions in securities trading operations of CAT Reporters, including all ATSS trading OTC Equity Securities. Moreover, the Operating Committee believes that the proposed rule change addresses certain competitive concerns raised by commenters related to ATSS trading OTC Equity Securities.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange set forth responses to comments received regarding the Original Proposal in the First Amendment. In addition, the changes proposed in this Second Amendment further responds to comments made regarding ATSS trading OTC Equity Securities.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.²¹

²⁰ 15 U.S.C. 78f(b)(8).

²¹ 15 U.S.C. 78s(b)(2).

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

- (a) This proposed rule change is filed pursuant to paragraph (A) of Section 19(b)(3) of the Exchange Act.
- (b) This proposed rule change establishes dues, fees or other charges among its members and, as such, may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act²² and paragraph (f)(2) of Rule 19b-4 thereunder.²³
- (c) Not applicable.
- (d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of the Proposed Rule Change for Publication in the Federal Register

Exhibit 4 – Text of proposed rule change as amended

Exhibit 5 – Text of the Proposed Rule Change

²² 15 U.S.C. 78s(b)(3)(A)(ii).

²³ 17 CFR 240.19b-4(f)(2).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NYSE-2017-22; Amendment No. 2)

[Date]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Consolidated Audit Trail Funding Fees

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on November 29, 2017, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Price List (“Price List”) to adopt the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).⁴ On October 25, 2017, NYSE filed an amendment to the Original Proposal (“First Amendment”). The Exchange files this proposed rule change (the “Second Amendment”) to amend the Original

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, the CAT Compliance Rule or in the CAT NMS Plan.

Proposal, as amended by the First Amendment. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

BOX Options Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. ("FINRA"), 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 American LLC, NYSE Arca, Inc. and NYSE National, Inc.⁵ (collectively, the "Participants") filed with the Commission,

⁵ Note that Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., LLC, C2 Options Exchange, Incorporated, and Chicago Board Options Exchange, Incorporated, have been renamed Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA

pursuant to Section 11A of the Exchange Act⁶ and Rule 608 of Regulation NMS thereunder,⁷ the CAT NMS Plan.⁸ The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the Federal Register on May 17, 2016,⁹ and approved by the Commission, as modified, on November 15, 2016.¹⁰ The Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the “Company”), of which each Participant is a member, to operate the CAT.¹¹ Under the CAT NMS Plan, the Operating Committee of the Company (“Operating Committee”) has discretion to establish funding for the Company to operate the CAT,

Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., respectively.

⁶ 15 U.S.C. 78k-1.

⁷ 17 CFR 242.608.

⁸ *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁹ Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 Fed. Reg. 30614 (May 17, 2016).

¹⁰ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 Fed. Reg. 84696 (Nov. 23, 2016) (“Approval Order”).

¹¹ The Plan also serves as the limited liability company agreement for the Company.

including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (“CAT Fees”).¹² The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.¹³ Accordingly, the Exchange submitted the Original Proposal to adopt the Consolidated Audit Trail Funding Fees, which would require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.

The Commission published the Original Proposal for public comment in the Federal Register on May 22, 2017,¹⁴ and received comments in response to the Original Proposal or similar fee filings by other Participants.¹⁵ On June 30, 2017, the Commission suspended, and instituted proceedings to determine whether to approve or disapprove, the Original Proposal.¹⁶ The Commission received seven comment letters in response to those proceedings.¹⁷

¹² Section 11.1(b) of the CAT NMS Plan.

¹³ *Id.*

¹⁴ Securities Exchange Act Rel. No. 80693 (May 16, 2017), 82 Fed. Reg. 23363 (May 22, 2017) (SR-NYSE-2017-22).

¹⁵ For a summary of comments, *see generally* Securities Exchange Act Rel. No. 81067 (June 30, 2017), 82 Fed. Reg. 31656 (July 7, 2017) (“Suspension Order”).

¹⁶ Suspension Order.

¹⁷ *See* Letter from Stuart J. Kaswell, Executive Vice President, Managing Director and General Counsel, Managed Funds Association, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“MFA Letter”); Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“SIFMA Letter”); Joanna Mallers, Secretary, FIA Principal Traders Group, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“FIA Principal Traders Group Letter”); Letter from Kevin Coleman, General Counsel & Chief Compliance Officer, Belvedere Trading LLC, to Brent J. Fields, Secretary, SEC (July 28, 2017) (“Belvedere Letter”); Letter from W. Hardy Callcott, Sidley

In response to the comments on the Original Proposal, the Operating Committee determined to make the following changes to the funding model: (1) add two additional CAT Fee tiers for Equity Execution Venues; (2) discount the market share of Execution Venue ATSS exclusively trading OTC Equity Securities as well as the market share of the FINRA over-the-counter reporting facility (“ORF”) by the average shares per trade ratio between NMS Stocks and OTC Equity Securities (calculated as 0.17% based on available data from the second quarter of June 2017) when calculating the market share of Execution Venue ATS exclusively trading OTC Equity Securities and FINRA; (3) discount the Options Market Maker quotes by the trade to quote ratio for options (calculated as 0.01% based on available data for June 2016 through June 2017) when calculating message traffic for Options Market Makers; (4) discount equity market maker quotes by the trade to quote ratio for equities (calculated as 5.43% based on available data for June 2016 through June 2017) when calculating message traffic for equity market makers; (5) decrease the number of tiers for Industry Members (other than the Execution Venue ATSS) from nine to seven; (6) change the allocation of CAT costs between Equity Execution Venues and Options Execution Venues from 75%/25% to 67%/33%; (7) adjust tier percentages and recovery allocations for Equity Execution Venues, Options Execution Venues and Industry Members (other than Execution Venue ATSS); (8) focus the comparability of CAT Fees on the individual entity level, rather than primarily on the comparability of affiliated entities; (9) commence invoicing of CAT

Austin LLP, to Brent J. Fields, Secretary, SEC (July 27, 2017) (“Sidley Letter”); Letter from John Kinahan, Chief Executive Officer, Group One Trading, L.P., to Brent J. Fields, Secretary, SEC (Aug. 10, 2017) (“Group One Letter”); and Letter from Joseph Molluso, Executive Vice President, Virtu Financial, to Brent J. Fields, Secretary, SEC (Aug. 18, 2017) (“Virtu Financial Letter”).

Reporters as promptly as possible following the latest of the operative date of the Consolidated Audit Trail Funding Fees for each of the Participants and the operative date of the CAT NMS Plan amendment adopting CAT Fees for Participants; and (10) require the proposed fees to automatically expire two years from the operative date of the CAT NMS Plan amendment adopting CAT Fees for Participants. On October 25, 2017, the Exchange filed the First Amendment and proposed to amend the Original Proposal to reflect these changes.

NYSE submits this Second Amendment to the revise the proposal as set forth in the First Amendment to discount the OTC Equity Securities market share of all Execution Venue ATSS trading OTC Equity Securities, rather than applying the discount solely to those Execution Venue ATSS that exclusively trade OTC Equity Securities, when calculating the market share of Execution Venue ATS trading OTC Equity Securities. As discussed in the First Amendment:

The Operating Committee determined to discount the market share of Execution Venue ATSS exclusively trading OTC Equity Securities as well as the market share of the FINRA ORF in recognition of the different trading characteristics of the OTC Equity Securities market as compared to the market in NMS Stocks. Many OTC Equity Securities are priced at less than one dollar—and a significant number at less than one penny—per share and low-priced shares tend to trade in larger quantities.

Accordingly, a disproportionately large number of shares are involved in transactions involving OTC Equity Securities versus NMS Stocks.

Because the proposed fee tiers are based on market share calculated by

share volume, Execution Venue ATSS exclusively trading OTC Equity Securities and FINRA would likely be subject to higher tiers than their operations may warrant.¹⁸

The Operating Committee believes that this argument applies equally to both Execution Venue ATSS exclusively trading OTC Equity Securities and to Execution Venue ATSS that trade OTC Equity Securities as well as other securities. Accordingly, NYSE proposes to amend paragraph (b)(2) of the Consolidated Audit Trail Funding Fees to apply the discount to all Execution Venue ATSS trading OTC Equity Securities. Specifically, the Exchange proposes to change the parenthetical regarding the OTC Equity Securities discount in paragraph (b)(2) of the proposed fee schedule from “with a discount for Equity ATSS exclusively trading OTC Equity Securities based on the average shares per trade ratio between NMS Stocks and OTC Equity Securities” to “with a discount for OTC Equity Securities market share of Equity ATSS trading OTC Equity Securities based on the average shares per trade ratio between NMS Stocks and OTC Equity Securities.”

Additionally, the Exchange proposes to delete footnote 45 in Section 3(a) on page 23 of the First Amendment as the footnote is erroneous and was included inadvertently.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,¹⁹ because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons

¹⁸ See SR-NYSE-2017-22, Amendment 1, Section 3(a), at page 23.

¹⁹ 15 U.S.C. 78f(b)(4).

using its facilities. The Exchange believes the proposed rule change is also consistent with Section 6(b)(5) of the Act,²⁰ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange believes that the proposed rule change is consistent with the Act, and that the proposed fees are reasonable, equitably allocated and not unfairly discriminatory. In particular, the Exchange believes that the proposed rule change would treat all Equity ATSS trading OTC Equity Securities in a comparable manner when calculating applicable fees. In addition, the proposed fee structure would take into consideration distinctions in securities trading operations of CAT Reporters, including all ATSS trading OTC Equity Securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²¹ require that the Exchange's rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed rule change is structured to impose comparable fees on similarly situated CAT Reporters. The Exchange believes that the proposed rule change would treat all Equity ATSS trading

²⁰ 15 U.S.C. 78f(b)(6).

²¹ 15 U.S.C. 78f(b)(8).

OTC Equity Securities in a comparable manner when calculating applicable fees. In addition, the proposed rule change would take into consideration distinctions in securities trading operations of CAT Reporters, including all ATSS trading OTC Equity Securities. Moreover, the Operating Committee believes that the proposed rule change addresses certain competitive concerns raised by commenters related to ATSS trading OTC Equity Securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)²² of the Act and subparagraph (f)(2) of Rule 19b-4²³ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁴ of the Act to determine whether the proposed rule change should be

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(2).

²⁴ 15 U.S.C. 78s(b)(2)(B).

approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2017-22 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2017-22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street,

NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2017-22 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Robert W. Errett
Deputy Secretary

²⁵ 17 CFR 200.30-3(a)(12).

Marked Additions: Double-underlined

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Exhibit 4 shows the changes proposed in the Second Amendment, with the proposed changes in the First Amendment shown as if adopted.

* * * * *

Consolidated Audit Trail Funding Fees

(a) Definitions.

(1) For purposes of the Consolidated Audit Trail Funding Fees, the terms “CAT,” “CAT NMS Plan”, “Industry Member”, “NMS Stock”, “OTC Equity Security”, “Options Market Maker”, and “Participant” are defined as set forth in the Rule 6810 (Consolidated Audit Trail – Definitions).

(2) “ATS” means an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS.

(3) “CAT Fee” means the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) below.

(4) “Equity ATS” is an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

(5) “Equity Execution Venue” means an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(6) “Execution Venue” means a Participant or an ATS (excluding any such ATS that does not execute orders).

(b) Fee Schedule.

(1) The CAT NMS, LLC will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic (with discounts for equity market maker quotes and Options Market Maker quotes based on the trade to quote ratio for equities and options, respectively) for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 7. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee

corresponding to the tier assigned by the CAT NMS, LLC for such Industry Member for that quarter:

Tier	Percentage of Industry Members	Quarterly CAT Fee
1	0.900%	\$81,483
2	2.150%	\$59,055
3	2.800%	\$40,899
4	7.750%	\$25,566
5	8.300%	\$7,428
6	18.800%	\$1,968
7	59.300%	\$105

(2) The CAT NMS, LLC will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities (with a discount for the OTC Equity Securities market share of Equity ATSs exclusively trading OTC Equity Securities based on the average shares per trade ratio between NMS Stocks and OTC Equity Securities) for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lowest quarterly market share will be ranked in Tier 4. Each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Equity ATS for that quarter:

Tier	Percentage of Equity Execution Venues	Quarterly CAT Fee
1	25.00%	\$81,048
2	42.00%	\$37,062
3	23.00%	\$21,126
4	10.00%	\$129

(c) **Timing and Manner of Payments.**

(1) The CAT NMS, LLC will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) above, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Each Industry Member will pay its CAT Fees to the CAT NMS, LLC via the centralized system for the collection of CAT Fees established by the CAT NMS, LLC in the manner prescribed by the CAT NMS, LLC.

(2) Each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

(d) Expiration.

These Consolidated Audit Trailing Funding Fees will automatically expire two years after the operative date of the amendment of the CAT NMS Plan that adopts CAT fees for the Participants.

Additions underscored
Deletions [bracketed]

New York Stock Exchange Price List 2017

Trading Licenses

Consolidated Audit Trail Funding Fees

(a) Definitions.

(1) For purposes of the Consolidated Audit Trail Funding Fees, the terms “CAT”, “CAT NMS Plan”, “Industry Member”, “NMS Stock”, “OTC Equity Security”, “Options Market Maker”, and “Participant” are defined as set forth in the Rule 6810 (Consolidated Audit Trail – Definitions).

(2) “ATS” means an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS.

(3) “CAT Fee” means the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) below.

(4) “Equity ATS” is an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

(5) “Equity Execution Venue” means an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

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(1) The CAT NMS, LLC will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic (with discounts for equity market maker quotes and Options Market Maker quotes based on the trade to quote ratio for equities and options, respectively) for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that

ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 7. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Industry Member for that quarter:

<u>Tier</u>	<u>Percentage of Industry Members</u>	<u>Quarterly CAT Fee</u>
<u>1</u>	<u>0.900%</u>	<u>\$81,483</u>
<u>2</u>	<u>2.150%</u>	<u>\$59,055</u>
<u>3</u>	<u>2.800%</u>	<u>\$40,899</u>
<u>4</u>	<u>7.750%</u>	<u>\$25,566</u>
<u>5</u>	<u>8.300%</u>	<u>\$7,428</u>
<u>6</u>	<u>18.800%</u>	<u>\$1,968</u>
<u>7</u>	<u>59.300%</u>	<u>\$105</u>

(2) The CAT NMS, LLC will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities (with a discount for the OTC Equity Securities market share of Equity ATSs trading OTC Equity Securities based on the average shares per trade ratio between NMS Stocks and OTC Equity Securities) for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lowest quarterly market share will be ranked in Tier 4. Each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Equity ATS for that quarter:

<u>Tier</u>	<u>Percentage of Equity Execution Venues</u>	<u>Quarterly CAT Fee</u>
<u>1</u>	<u>25.00%</u>	<u>\$81,048</u>
<u>2</u>	<u>42.00%</u>	<u>\$37,062</u>
<u>3</u>	<u>23.00%</u>	<u>\$21,126</u>
<u>4</u>	<u>10.00%</u>	<u>\$129</u>

(c) Timing and Manner of Payments.

(1) The CAT NMS, LLC will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) above, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Each Industry Member will pay its CAT Fees to the CAT NMS, LLC via the centralized system for the collection of CAT Fees established by the CAT NMS, LLC in the manner prescribed by the CAT NMS, LLC.

(2) Each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

(d) Expiration.

These Consolidated Audit Trail Funding Fees will automatically expire two years after the operative date of the amendment of the CAT NMS Plan that adopts CAT fees for the Participants.
