

impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”<sup>21</sup> As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

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

Section 6(b)(8) of the Exchange Act<sup>22</sup> requires that Exchange 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of their EBS and other CAT duplicative rules to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

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

Written comments were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2017-20 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-MIAX-2017-20. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2017-20, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-11366 Filed 5-31-17; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80781; File No. SR-NYSEArca-2017-60]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change for a New NYSE Arca Rule 11.6900 and a New NYSE Arca Equities Rule 6.6900 To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members**

May 26, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act” or the “Exchange Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on May 16, 2017, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“SEC” or the “Commission”) the proposed rule change as described in Items I and II 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 a new NYSE Arca Rule 11.6900 and a new NYSE Arca Equities Rule 6.6900 to establish

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s (b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>21</sup> Approval Order at 84697.

<sup>22</sup> 15 U.S.C. 78f(b)(8)

the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.<sup>4</sup> The proposed change is available on the Exchange's Web site 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, 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,<sup>5</sup> NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.<sup>6</sup> (collectively, the "Participants") filed with the Commission, pursuant to

Section 11A of the Exchange Act<sup>7</sup> and Rule 608 of Regulation NMS thereunder,<sup>8</sup> the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan").<sup>9</sup> 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,<sup>10</sup> and approved by the Commission, as modified, on November 15, 2016.<sup>11</sup> 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.<sup>12</sup> 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").<sup>13</sup> 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.<sup>14</sup> Accordingly, the Exchange filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.<sup>15</sup> The Exchange submits this rule filing to adopt a new NYSE Arca Rule 11.6900 and a new NYSE Arca Equities Rule 6.6900 to establish

the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 11.6900 would apply to Industry Members of the Exchange's options market and proposed Rule 6.6900 would apply to Industry Members of the Exchange's equities markets. Proposed Rule 11.6900 is described below.

#### (1) Definitions

Paragraph (a) of proposed Rule 11.6900 sets forth the definitions for proposed Rule 11.6900. Paragraph (a)(1) of proposed Rule 11.6900 states that, for purposes of Rule 11.6900, the terms "CAT NMS Plan", "Industry Member", "Operating Committee", and "Participant" are defined as set forth in the Rule 11.6810 (Consolidated Audit Trail—Definitions), and the term "CAT Fee" is defined in the Consolidated Audit Trail Funding Fees section of the NYSE Arca Options Fee Schedule. In addition, the Exchange proposes to add paragraph (a)(2) to proposed Rule 11.6900. New paragraph (a)(2) would define the term "Subcommittee" to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

#### (2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of proposed Rule 11.6900. Paragraph (b) of proposed Rule 11.6900 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 11.6900. Decisions on such matters will be binding on Industry Members,

<sup>7</sup> 15 U.S.C. 78k-1.

<sup>8</sup> 17 CFR 242.608.

<sup>9</sup> 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.

<sup>10</sup> Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

<sup>11</sup> Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) ("Approval Order").

<sup>12</sup> The Plan also serves as the limited liability company agreement for the Company.

<sup>13</sup> Section 11.1(b) of the CAT NMS Plan.

<sup>14</sup> Section 11.1(b) of the CAT NMS Plan.

<sup>15</sup> See SR-NYSEArca-2017-52, filed on May 10, 2017.

<sup>4</sup> Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the Consolidated Audit Trail Funding Fees sections of the NYSE Arca Options Fee Schedule and the NYSE Arca Equities Fee Schedule, the NYSE Arca and NYSE Arca Equities CAT Compliance Rule Series or in the CAT NMS Plan.

<sup>5</sup> ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. See Securities Exchange Act Release Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

<sup>6</sup> National Stock Exchange, Inc. has been renamed NYSE National, Inc. See Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted "Fee Dispute Resolution Procedures" governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 11.6900. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing will furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the

other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the

parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after

receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are 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.

The Exchange also proposes to adopt new NYSE Arca Equities Rule 6.6900 that would be substantially the same as proposed NYSE Arca Rule 11.6900.

Like its NYSE Arca counterpart, paragraph (a) of proposed NYSE Arca Equities Rule 6.6900 sets forth the definitions for proposed Rule 6.6900. Paragraph (a)(1) of proposed Rule 6.6900 states that, for purposes of Rule 6.6900, the terms "CAT NMS Plan", "Industry Member", "Operating Committee", and "Participant" are defined as set forth in the Rule 6.6810 (Consolidated Audit Trail—Definitions), and the term "CAT Fee" is defined in the Consolidated Audit Trail Funding Fees section of the NYSE Arca Equities Fee Schedule. In addition, the Exchange proposes to add paragraph (a)(2) to proposed Rule 6.6900. New paragraph (a)(2) would define the term "Subcommittee" to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

Like its NYSE Arca counterpart, paragraph (b) of proposed Rule 6.6900 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 6.6900.

As discussed above, the Operating Committee has adopted "Fee Dispute Resolution Procedures" governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 6.6900, and are identical to those set forth in paragraph (c) of proposed NYSE Arca Rule 11.6900. The Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated

Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

As described above for paragraph (c) of proposed NYSE Arca Rule 11.6900, under the Fee Dispute Resolution Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing will furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be

permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either

personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are 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.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,<sup>16</sup> which require, among other things, that the Exchange's rules must 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, and Section 6(b)(8) of the Act,<sup>17</sup> which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."<sup>18</sup> To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing, and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

### *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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2017-60 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEArca-2017-60. This file number should be included on the subject line if email 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 Web site (<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 Web site 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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78f(b)(8).

<sup>18</sup> Approval Order at 84697.

office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–60, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017–11357 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80796; File No. SR–BatsBZX–2017–37]

### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) <sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on May 15, 2017, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 filed a proposal to modify requirements for the collection of information that is duplicative of information intended to be collected for the consolidated audit trail (“CAT”) adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).<sup>3</sup> The Exchange will announce the implementation date of the proposed rule change and effective date of the retirement of any

related systems by Regulatory Circular that will be published once the options exchanges determine the thresholds for accuracy and reliability described below have been met and that the Plan Processor for CAT is sufficiently meeting all of its obligations under the CAT NMS Plan.

The text of the proposed rule change is available at the Exchange’s Web site at [www.bats.com](http://www.bats.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 Exchange 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 these 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, 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,<sup>4</sup> NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.<sup>5</sup> (collectively, the “Participants”) filed with the Commission, pursuant to Section 11A of the Exchange Act <sup>6</sup> and

<sup>4</sup> ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. See Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

<sup>5</sup> National Stock Exchange, Inc. has been renamed NYSE National, Inc. See Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

<sup>6</sup> 15 U.S.C. 78k–1.

Rule 608 of Regulation NMS thereunder,<sup>7</sup> the CAT NMS Plan.<sup>8</sup> 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,<sup>9</sup> and approved by the Commission, as modified, on November 15, 2016.<sup>10</sup> The Plan is designed to create, implement and maintain a 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. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.<sup>11</sup> In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to “file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC’s approval of the CAT NMS Plan.”<sup>12</sup> The Plan notes that “the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.”<sup>13</sup>

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange determined Rules 22.7 and 24.4 require the reporting of information intended to be collected by the CAT. Therefore, the Exchange believes those provisions will no longer be necessary once the CAT is operational and proposes to modify those Rules as described below. Additionally, the Exchange describes below additional reporting requirements that it may reduce for which no rule changes are necessary. These changes will be implemented in accordance with the timeline described below.

<sup>7</sup> 17 CFR 242.608.

<sup>8</sup> 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.

<sup>9</sup> Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

<sup>10</sup> Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“Approval Order”).

<sup>11</sup> Appendix C of CAT NMS Plan, Approval Order at 85010.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>19</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

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