

that the BDC has made, towards achieving compliance with the asset coverage requirements under section 18 of the Investment Company Act, as modified by section 61, by the expiration of the Exemption Period. Upon expiration of the Exemption Period, any BDC not in compliance with the asset coverage requirements applicable to such BDC at that time as described in sections 18(a)(1)(A) and 18(a)(2)(A), as modified by sections 61(a)(1) and 61(a)(2), shall immediately make a filing on Form 8-K that includes the following information: (i) The BDC's current asset coverage ratio; (ii) the reasons why the BDC was unable to comply with the asset coverage requirements; (iii) the time frame within which the BDC expects to come into compliance with the asset coverage requirements; and (iv) the specific steps that the BDC will be undertaking to bring itself into compliance with the asset coverage requirements.<sup>6</sup>

(g) *Recordkeeping.* Each BDC shall make and preserve, for a period of not less than six years, the first two years in an easily accessible place, minutes describing (i) the Board's deliberations in connection with paragraph (e) above, including the factors considered by the board in connection with such determinations, as well as all information, documents and reports provided to the Board in connection therewith; and (ii) the reports made to the Board pursuant to paragraph (f) above, including copies of all other information provided to or relied upon by the Board.

(h) *No Compensation or Remuneration of Any Kind.* Except (i) to the extent permitted by section 57(k) of the Investment Company Act; or (ii) for payments or distributions made by an issuer to all holders of a security in accordance with the security's terms, no affiliated person of the BDC nor any affiliated person of such a person, shall receive any transaction fees (including break-up, structuring, monitoring or commitment fees) or other remuneration from an issuer in which the BDC invests during the Exemption Period. For the avoidance of doubt, this condition does not apply to the receipt of investment advisory fees by an investment adviser to the BDC under an investment management agreement entered into in accordance with section 15 of the Investment Company Act.

(i) This Order provides relief only to issue or sell senior securities

<sup>6</sup> Sections 18 and 61 of the Investment Company Act generally prohibit a BDC that is not in compliance with its asset coverage requirements from paying a cash dividend or issuing additional senior securities.

representing an indebtedness or that is a stock. This Order does not provide relief in connection with the declaration or payment of any dividend or any other distribution.

### III. Expansion of Relief for BDCs With Existing Co-Investment Orders

*It is Ordered,* pursuant to sections 17(d) and 57(i) of the Investment Company Act and rule 17d-1 thereunder that:

During the Exemption Period, notwithstanding sections 17(d) and 57(a)(4) of the Investment Company Act and rule 17d-1 thereunder, any BDC to which a Commission order permitting co-investment transactions in portfolio companies with certain affiliated persons is currently applicable ("existing co-investment order") may:

Participate in a Follow-On Investment (which may include a Non-Negotiated Follow-On Investment) with one or more Regulated Funds and/or Affiliated Funds, provided that (i) if such participant is a Regulated Fund, it has previously participated in a Co-Investment Transaction with the BDC with respect to the issuer, and (ii) if such participant is an Affiliated Fund, it either (X) has previously participated in a Co-Investment Transaction with the BDC with respect to the issuer, or (Y) is not invested in the issuer;<sup>7</sup> *provided that:*

(a) Any such transaction is otherwise effected in accordance with the terms and conditions of the existing co-investment order; and

(b) *Board Oversight.*

(1) *Non-Negotiated Follow-On Investments.* Non-Negotiated Follow-On Investments do not require prior approval by the Board; however they are subject to the periodic reporting requirements set forth in the BDC's existing co-investment order.

(2) *Follow-On Investments other than Non-Negotiated Follow-On Investments.* In connection with making the findings required by the BDC's existing co-investment order with respect to Follow-On Investments that are not

<sup>7</sup> The terms Follow-On Investment, Regulated Fund, Affiliated Fund and Co-Investment Transaction shall have the same meanings ascribed to them in the BDC's existing co-investment order, or, if the BDC's existing co-investment order uses a substantially similar term, the substantially similar term. For purposes of this Order, the term Affiliated Fund does not include any open or closed-end investment company registered under the Investment Company Act or a BDC.

The term "Non-Negotiated Follow-On Investment" shall be given the meaning ascribed to it in existing co-investment orders. For purposes of this Order, a BDC may participate in a Non-Negotiated Follow-On Investment in reliance on this Order whether or not such term is used in its existing co-investment order.

Non-Negotiated Follow-On Investments, the Board, and a Required Majority, shall review the proposed Follow-On Investment both on a stand-alone basis and in relation to the total economic exposure of the BDC to the issuer.<sup>8</sup>

By the Commission.

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88604; File No. SR-NYSECHX-2020-12]

### Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7.37 To Update the Exchange's Source of Data Feeds From the Long-Term Stock Exchange, Inc.

April 8, 2020.

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 April 6, 2020, NYSE Chicago, Inc. ("NYSE Chicago" or the "Exchange") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Rule 7.37 to update the Exchange's source of data feeds from the Long-Term Stock Exchange, Inc. ("LTSE") for purposes of order handling, order execution, order routing, and regulatory compliance. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of

<sup>8</sup> For purposes of complying with this condition of this Order, the Board, and a Required Majority, need not make the findings required with respect to Enhanced Review Follow-On Investments, as such term is defined in existing co-investment orders.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Rule 7.37, which sets forth on a market-by-market basis the specific securities information processor ("SIP") and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(d) to specify that, with respect to the LTSE, the Exchange will receive the SIP feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance. The Exchange will not have a secondary source for data from LTSE.

The Exchange proposes that this proposed rule change would be operative on the day that LTSE launches operations as an equities exchange, which is currently scheduled for May 15, 2020.<sup>5</sup>

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>7</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to

remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to amend the table in Rule 7.37(d) to update the data feed source for the LTSE will ensure that Rule 7.37 correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

### 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue, but rather would provide the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance.

### 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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

of the Act and Rule 19b-4(f)(6)(iii) thereunder.

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)<sup>10</sup> of the Act to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSECHX-2020-12 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-NYSECHX-2020-12. 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 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

<sup>5</sup> On March 25, 2020, LTSE announced that it would begin phasing in securities on its production system on May 15, 2020. See LTSE Market Announcement: MA-202-008, available here: <https://longtermstockexchange.com/static/MA-2020-008-dfec5067f88285a0f563a894451b1f22.pdf>.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

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-NYSECHX-2020-12, and should be submitted on or before May 5, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88608]

### Order Granting Conditional Exemptive Relief, Pursuant to Section 36 of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 608(e) of Regulation NMS Under the Exchange Act to Rule 608(e) of Regulation NMS Under the Exchange Act, Relating to Granularity of Timestamps Specified in Section 6.8(b) and Appendix D, Section 3 of the National Market System Plan Governing the Consolidated Audit Trail

April 8, 2020.

#### I. Introduction

By letter dated February 3, 2020, BOX 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., Financial Industry Regulatory Authority, Inc. (“FINRA”), Investors Exchange LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, NASDAQ BX, LLC, 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., NYSE Chicago, Inc., NYSE National, Inc., and Long Term Stock Exchange, Inc. (collectively, the “Participants”) to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”),<sup>1</sup> requested that the Securities

and Exchange Commission (“Commission” or “SEC”) grant limited exemptive relief to the Participants, pursuant to its authority under Section 36 of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>2</sup> and Rule 608(e) of Regulation NMS under the Exchange Act, from the timestamp granularity requirements of Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan.<sup>3</sup>

Section 36 of the Exchange Act grants the Commission the authority, with certain limitations, to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”<sup>4</sup> Under Rule 608(e) of Regulation NMS, the Commission may “exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.”<sup>5</sup>

For the reasons set forth below, this Order grants the Participants’ request for an exemption from Section 6.8(b) and Appendix D, Section 3 of the CAT NMS Plan as set forth in the February 3, 2020 Exemption Request, subject to certain conditions.<sup>6</sup>

#### II. Description

The CAT NMS Plan sets forth certain requirements regarding the granularity

(November 15, 2016), 81 FR 84696 (November 23, 2016) (“CAT NMS Plan Approval Order”).

<sup>2</sup> 15 U.S.C. 78mm(a)(1).

<sup>3</sup> See letter from the Participants to Vanessa Countryman, Secretary, Commission, dated February 3, 2020 (the “February 3, 2020 Exemption Request”). Unless otherwise noted, capitalized terms are used as defined in the CAT NMS Plan.

<sup>4</sup> 15 U.S.C. 78mm(a)(1).

<sup>5</sup> 17 CFR 242.608(e).

<sup>6</sup> The February 3, 2020 Exemption Request also includes a separate request for exemptive relief from Section 6.4(d)(ii)(C) of the CAT NMS Plan. Specifically, in circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual customer, subject to certain conditions. The Commission is not addressing that request at this time.

of timestamps accepted by the CAT system. Specifically, Section 6.8(b) of the CAT NMS Plan states “[e]ach Participant shall, and through its Compliance Rule shall require its Industry Members to, report information required by SEC Rule 613 and this Agreement to the Central Repository in milliseconds,” but that “[t]o the extent that any Participant’s order handling or execution systems utilize timestamps in increments finer than the minimum required in this Agreement, such Participant shall utilize such finer increment when reporting CAT Data to the Central Repository so that all Reportable Events reported to the Central Repository can be adequately sequenced.”<sup>7</sup> Section 6.8(b) further states that “each Participant shall, through its Compliance Rule: (i) Require that, to the extent that its Industry Members utilize timestamps in increments finer than the minimum required in this Agreement in their order handling or execution systems, such Industry Members shall utilize such finer increment when reporting CAT Data to the Central Repository.”<sup>8</sup> In addition, Section 3 of Appendix D of the CAT NMS Plan states that the Central Repository must be able to “[a]ccept time stamps on order events handled electronically to the finest level of granularity captured by CAT Reporters.”

Section 6.8(c) of the CAT NMS Plan imposes further requirements on Participants regarding analysis of timestamp granularity. Specifically, Section 6.8(c) of the CAT NMS Plan requires the Chief Compliance Officer to, “[i]n conjunction with Participants’ and other appropriate Industry Member advisory groups,” “annually evaluate and make a recommendation to the Operating Committee as to whether industry standards have evolved such that: . . . (ii) the required time stamp in Section 6.8(b) should be in finer increments.”

#### III. Request for Relief

In the February 3, 2020 Exemption Request, the Participants request that the Commission exempt the Participants from the requirement in Section 6.8(b) of the CAT NMS Plan that Participants reporting CAT Data to the Central

<sup>7</sup> Notwithstanding other requirements of Section 6.8(b), the CAT NMS Plan provides that Participants and Industry Members are permitted to record and report Manual Order Events and the time of allocation on Allocation Reports in increments up to and including one second. See CAT NMS Plan Section 6.8(b).

<sup>8</sup> The CAT NMS Plan defines “Compliance Rule” to mean, “with respect to a Participant, the rule(s) promulgated by such Participant as contemplated by Section 3.11.” See CAT NMS Plan Section 1.1.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No79318