

any of the NDX option series used for the Closing VWAP for potential manipulation on the Exchange.

Utilizing a time period of one second to acquire a new observation window would allow the Exchange to utilize an observation window closest in time to the original window. Also, moving forward in increments of one second, as necessary, would serve to methodically move through the trading day for a potential observation window that would satisfy the Exchange's liquidity requirements.

The Exchange's proposal to amend the term "executed orders" to exclude out-of-sequence and late trades is consistent with the Act as these values may represent potential stale data in the Closing VWAP calculation. The Exchange believes the midpoint better reflects the price of a component.

Finally, the Exchange's proposal to amend current Options 4A, Section 12(b)(6)(D)(II) to remove the 12:00 p.m. deadline for publishing a settlement value is consistent with the Act because a re-opening could occur anytime during the trading day and, therefore, citing specifically to a 12:00 p.m. timeframe does not consider all possible scenarios. Further, specifically indicating a trading halt of the Nasdaq-100 index options in the rule text is more precise as the impact to the Nasdaq-100 index options is a direct concern for VOLQ. The proposed language more directly expands upon the manner in which the Closing VWAP will be handled in the event of a trading halt.

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

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed alternative observation windows will facilitate the listing and trading of the Volatility Index by ensuring liquidity for each of the option components. The proposed structure will enhance competition among market participants, to the benefit of investors and the marketplace.

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

No written comments were either solicited or 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-Phlx-2021-56 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-Phlx-2021-56. 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 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-Phlx-2021-56 and should be submitted on or before October 28, 2021.

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

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

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-93227; File No. 4-698]

### **Joint Industry Plan; Notice of Designation of a Longer Period for Commission Action on a Proposed Amendment to the National Market System Plan Governing the Consolidated Audit Trail**

October 1, 2021.

On March 31, 2021, the Operating Committee for Consolidated Audit Trail, LLC ("CAT LLC" or the "Company"), on behalf of the following parties to the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"):<sup>1</sup> 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., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MEMX, LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the "Participants," "self-regulatory organizations," or "SROs") filed with the Securities and Exchange Commission ("SEC" or "Commission")

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

<sup>1</sup> The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Exchange Act”),<sup>2</sup> and Rule 608 thereunder,<sup>3</sup> a proposed amendment (“Proposed Amendment”) to the CAT NMS Plan to implement a revised funding model for the consolidated audit trail (“CAT”) and to establish a fee schedule for Participant CAT fees in accordance with the Proposed Funding Model. The Proposed Amendment was published for comment in the **Federal Register** on April 21, 2021.<sup>4</sup>

On July 20, 2021, the Commission instituted proceedings to determine whether to approve or disapprove the Proposed Amendment.<sup>5</sup> Rule 608(b)(2)(i) of Regulation NMS provides that such proceedings shall be concluded within 180 days of the date of publication of notice of the plan or amendment and that the time for conclusion of such proceedings may be extended for up to 60 days (up to 240 days from the date of notice publication) if the Commission determines that a longer period is appropriate and publishes the reasons for such determination or the plan participants consent to the longer period.<sup>6</sup> The 180th day after publication of the Notice for the Proposed Amendment is October 18, 2021. The Commission is extending this 180-day period.

The Commission finds that it is appropriate to designate a longer period within which to conclude proceedings regarding the Proposed Amendment so that it has sufficient time to consider the Proposed Amendment and the comments received. Accordingly, pursuant to Rule 608(b)(2)(i) of Regulation NMS,<sup>7</sup> the Commission designates December 17, 2021, as the date by which the Commission shall conclude the proceedings to determine whether to approve or disapprove the Proposed Amendment (File No. 4–698).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

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

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<sup>2</sup> 15 U.S.C 78k–1(a)(3).

<sup>3</sup> 17 CFR 242.608.

<sup>4</sup> See Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail, Release No. 91555 (April 14, 2021), 86 FR 21050 (“Notice”).

<sup>5</sup> See Securities Exchange Act Release No. 92451 (July 20, 2021), 86 FR 40114 (July 26, 2021) (“OIP”). Comments received in response to the Notice and OIP can be found on the Commission’s website at <https://www.sec.gov/comments/4-698/4-698-a.htm>.

<sup>6</sup> See 17 CFR 242.608(b)(2)(i).

<sup>7</sup> *Id.*

<sup>8</sup> 17 CFR 200.30–3(a)(85).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93228; File No. SR–NYSEARCA–2021–86]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 7.12–E

October 1, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on September 30, 2021, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (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 to extend the pilot related to the market-wide circuit breaker in Rule 7.12–E to the close of business on March 18, 2022. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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.

<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.

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

##### 1. Purpose

The Exchange proposes to extend the pilot related to the market-wide circuit breaker in Rule 7.12–E to the close of business on March 18, 2022.

##### Background

The Market-Wide Circuit Breaker (“MWCBS”) rules, including the Exchange’s Rule 7.12–E, provide an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant stress when cash equities securities experience extreme market-wide declines. The MWCBS rules are designed to slow the effects of extreme price declines through coordinated trading halts across both cash equity and equity options securities markets.

The cash equities rules governing MWCBS were first adopted in 1988 and, in 2012, all U.S. cash equity exchanges and FINRA amended their cash equities uniform rules on a pilot basis (the “Pilot Rules,” *i.e.*, Rule 7.12–E (a)–(d)).<sup>4</sup> The Pilot Rules currently provide for trading halts in all cash equity securities during a severe market decline as measured by a single-day decline in the S&P 500 Index (“SPX”).<sup>5</sup> Under the Pilot Rules, a market-wide trading halt will be triggered if SPX declines in price by specified percentages from the prior day’s closing price of that index. The triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. and before 3:25 p.m. would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. would not halt market-wide trading. (Level 1 and Level 2 halts may occur only once a day.) A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading for the remainder of the trading day.

The Commission approved the Pilot Rules, the term of which was to

<sup>4</sup> See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (“Pilot Rules Approval Order”).

<sup>5</sup> The rules of the equity options exchanges similarly provide for a halt in trading if the cash equity exchanges invoke a MWCBS Halt. *See, e.g.*, NYSE Arca Rule 6.65–O(d)(4).