

The Exchange has requested, pursuant to Rule 0–12 under the Exchange Act,⁷ that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to the Exchange's rules that are effected solely by virtue of a change to the Nasdaq Rule 1000 Series that are incorporated by reference. Specifically, the Exchange requests that it be permitted to incorporate by reference changes made to the Nasdaq Rule 1000 Series that are cross-referenced in the Exchange's rules without the need for the Exchange to file separately the same proposed rule change pursuant to Section 19(b) of the Exchange Act.⁸

The Exchange represents that the Nasdaq Rule 1000 Series are not trading rules.⁹ Moreover, the Exchange states that it proposes to incorporate by reference a category of rules (rather than individual rules within a category).¹⁰ The Exchange also represents that, as a condition of this exemption, the Exchange will provide written notice to its applicants and members whenever Nasdaq proposes a change to Nasdaq Rule 1000 Series.¹¹

According to the Exchange, this exemption is necessary and appropriate because it will result in the Exchange's membership rules and processes being consistent with the relevant cross-referenced Nasdaq membership rules and processes at all times.¹² The Exchange states that harmonization of the membership rules and processes between the Exchange and Nasdaq will ease compliance burdens for those seeking membership on both exchanges and increase internal efficiencies associated with administering the membership rules and processes of each exchange.¹³

The Commission has issued exemptions similar to the Exchange's request.¹⁴ In granting similar

exemptions, the Commission stated that it would consider future exemption requests, provided that:

- A self-regulatory organization ("SRO") wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act;¹⁵

- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (e.g., the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and

- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.¹⁶

The Commission believes that the Exchange has satisfied each of these conditions. Further, the Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use

reference); 80338 (March 29, 2017), 82 FR 16464 (April 4, 2017) (order granting exemptive request from MIAx PEARL, LLC relating to rules of Miami International Securities Exchange, LLC incorporated by reference); 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.'s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) ("BATS Options Market Order"); and 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080, and granting exemptive request relating to rules incorporated by reference by The NASDAQ Options Market).

¹⁵ See 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) ("Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule").

¹⁶ See BATS Options Market Order, *supra* note 14 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) ("2004 Order")).

of the Commission's and the Exchange's resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.¹⁷ The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it incorporates by reference. This exemption is conditioned upon the Exchange promptly providing written notice to its applicants and members whenever Nasdaq changes a rule that the Exchange incorporates by reference.

Accordingly, *it is ordered*, pursuant to Section 36 of the Exchange Act,¹⁸ that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in the Exemptive Request, provided that the Exchange promptly provides written notice to its applicants and members whenever Nasdaq proposes to change a rule that the Exchange has incorporated by reference.

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

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91203]

Order Granting Application by Cboe C2 Exchange, Inc. for Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

February 24, 2021.

Cboe C2 Exchange, Inc. ("C2" or the "Exchange") has filed with the Securities and Exchange Commission (the "Commission") an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ from the rule filing requirements of Section 19(b) of the

¹⁷ See BATS Options Market Order, *supra* note 14, 75 FR at 8761; *see also* 2004 Order, *supra* note 16, 69 FR at 8502.

¹⁸ 15 U.S.C. 78mm.

¹⁹ 17 CFR 200.30–3(a)(76).

¹ 15 U.S.C. 78mm(a)(1).

⁷ 17 CFR 240.0–12.

⁸ See Exemptive Request, *supra* note 3.

⁹ *Id.*

¹⁰ *Id.* at 2 n.7.

¹¹ *Id.* at 3. The Exchange states that it will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b–4(l) within the timeframe required by such Rule. In addition, the Exchange states that the website posting will include a link to the location on Nasdaq's website where the applicable proposed rule change is posted. *Id.* at 3 n.8.

¹² See *id.* at 2.

¹³ See *id.*

¹⁴ See, e.g., Securities Exchange Act Release Nos. 86896 (September 6, 2019), 84 FR 48186 (September 12, 2019) (order granting application by Nasdaq BX, Inc. for exemption pursuant to section 36(a) of the Exchange Act from the rule filing requirements of section 19(b) of the Exchange Act with respect to the Nasdaq Rule 1000 Series incorporated by

Exchange Act² with respect to certain rules of Cboe Exchange, Inc. (“Cboe”) that the Exchange seeks to incorporate by reference.³ Section 36(a)(1) of the Exchange Act,⁴ subject to certain limitations, authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

The Exchange filed a proposed rule change⁵ under Section 19(b) of the Exchange Act to update various C2 Rules and Chapters to reflect changes to the Cboe Options rulebook. Namely, in the proposed rule change, the Exchange proposed to incorporate by reference rule changes made to each Cboe Options rule cross-referenced in the following C2 chapters or sections: Chapter 3, Section B (TPH Registration);⁶ Chapter 4, Section A (Equity and ETP Options);⁷ Chapter 4, Section B (Index Options);⁸ Chapter 5 (Business Conduct);⁹ Chapter 6, Section E (Intermarket Linkage);¹⁰ Chapter 6, Section F (Exercises and Deliveries);¹¹ Chapter 7, Section A;¹² Chapter 7, Section B;¹³ Chapter 9 (Doing Business with the Public);¹⁴ Chapter 10 (Margin Requirements);¹⁵

Chapter 1 (Net Capital Requirements);¹⁶ Chapter 12 (Summary Suspension);¹⁷ Chapter 13 (Discipline);¹⁸ Chapter 14 (Arbitration);¹⁹ and Chapter 15 (Hearings and Review)²⁰ (the “Cboe Incorporated Rules”).

The Commission notes it previously granted C2 an exemption from the rule filing requirements of Section 19(b) of the Act for the rules of the Cboe set forth in the C2 rules referenced above.²¹ Since that time, the Cboe has renumbered and relocated the previously incorporated rules within its rulebook. As a result, C2 has submitted this exemptive request to reflect rule number changes in the Cboe Options rulebook. Specifically, the Exchange is now requesting, pursuant to Rule 0–12 under the Exchange Act,²² that the Commission grant an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to the Chapters 3–7 and 9–15 of the Exchange’s rules that are effected solely by virtue of a change to a Cboe Incorporated Rule. The Exchange requests that it be permitted to incorporate by reference changes made to the Cboe Incorporated Rules without the need for the Exchange to file separately the same proposed rule change pursuant to Section 19(b) of the Exchange Act.²³

The Exchange represents that the Cboe Incorporated Rules are not trading rules.²⁴ Moreover, the Exchange states that it proposes to incorporate by reference a category of rules (rather than individual rules within a category).²⁵ The Exchange also represents that, as a condition of this exemption, the Exchange will provide written notice to its applicants and members whenever Cboe proposes a change to a Cboe Incorporated Rule.²⁶

According to the Exchange, this exemption is necessary and appropriate to maintain consistency between C2 rules and the Cboe Incorporated Rules, thus helping to ensure identical regulation of C2 Permit Holders that are also Cboe Trading Permit Holders with respect to the incorporated provisions as well as helping to ensure that C2-only Permit Holders are subject to consistent regulation as Cboe Trading Permit Holders.²⁷ The Exchange believes that, without such an exemption, such Permit Holders could be subject to two different standards.²⁸

The Commission has issued exemptions similar to the Exchange’s request.²⁹ In granting similar exemptions, the Commission stated that it would consider future exemption requests, provided that:

- A self-regulatory organization (“SRO”) wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission’s release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act;³⁰

- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.*, the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and

²⁷ See Exemptive Request, *supra* note 3.

²⁸ See *id.*

²⁹ See, *e.g.*, Securities Exchange Act Release Nos. 86896 (September 6, 2019), 84 FR 48186 (September 12, 2019) (order granting exemptive request from Nasdaq BX, Inc. relating to rules of The Nasdaq Stock Market LLC incorporated by reference) (“Nasdaq BX Order”); 86422 (July 22, 2019), 84 FR 36151 (July 26, 2019) (order granting exemptive request from Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, and Nasdaq Phlx LLC relating to rules of The Nasdaq Stock Market LLC incorporated by reference); 80338 (March 29, 2017), 82 FR 16464 (April 4, 2017) (order granting exemptive request from MIAx PEARL, LLC relating to rules of Miami International Securities Exchange, LLC incorporated by reference); and 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference).

³⁰ See 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (“Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule”).

² 15 U.S.C. 78s(b).

³ See letter from Rebecca Tenuta, Counsel, Cboe C2 Exchange, Inc. to Vanessa Countryman, Secretary, Commission, dated February 9, 2021 (“Exemptive Request”).

⁴ 15 U.S.C. 78mm(a)(1).

⁵ See Securities Exchange Act Release No. 87646 (December 2, 2019), 84 FR 66938 (December 6, 2019) (SR–C2–2019–025).

⁶ Incorporates by reference Cboe Options Chapter 3, Section B.

⁷ Incorporates by reference Cboe Options Chapter 4, Section A.

⁸ Incorporates by reference Cboe Options Chapter 4, Section B.

⁹ Incorporates by reference Cboe Options Chapter 8.

¹⁰ Incorporates by reference Cboe Options Chapter 5, Section E.

¹¹ Incorporates by reference Cboe Options Chapter 6, Section B.

¹² Incorporates by reference Cboe Options Chapter 7, Section A.

¹³ Incorporates by reference Cboe Options Chapter 7, Section B.

¹⁴ Incorporates by reference Cboe Options Chapter 9. See also Securities Exchange Act Release No. 87646 (December 2, 2019), 84 FR 66938 (December 6, 2019) (SR–C2–2019–025), which relocated former Rule 3.19 to Rule 9.20 in order to include Cboe Options Rule 9.20 in C2 Chapter 9’s incorporation of Cboe Options Chapter 9 by reference, as former Rule 3.19 is identical to Cboe Options Rule 9.20 and it is within the same category of exchange rules otherwise incorporated into C2 Chapter 9 by reference to Cboe Options Chapter 9 (*i.e.* rule related to doing business with the public).

¹⁵ Incorporates by reference Cboe Options Chapter 10.

¹⁶ Incorporates by reference Cboe Options Chapter 11.

¹⁷ Incorporates by reference Cboe Options Chapter 12.

¹⁸ Incorporates by reference Cboe Options Chapter 13.

¹⁹ Incorporates by reference Cboe Options Chapter 14.

²⁰ Incorporates by reference Cboe Options Chapter 15.

²¹ See Securities Exchange Act Release Nos. 61152 (December 10, 2009), 74 FR 66699 (December 16, 2009); and 80339 (March 29, 2017), 82 FR 16442 (April 4, 2017).

²² 17 CFR 240.0–12.

²³ See Exemptive Request, *supra* note 3.

²⁴ *Id.*

²⁵ *Id.*

²⁶ The Exchange states that it will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b-4(l) within the timeframe required by such Rule. In addition, the Exchange states that the website posting will include a link to the location on Cboe’s website where the applicable proposed rule change is posted. *Id.*

• The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.³¹

The Commission believes that the Exchange has satisfied each of these conditions. Further, the Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of the Commission's and the Exchange's resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it incorporates by reference. This exemption is conditioned upon the Exchange promptly providing written notice to its applicants and members whenever Cboe changes a Cboe Incorporated Rule.

Accordingly, It is Ordered, pursuant to Section 36 of the Exchange Act,³² that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in the Exemptive Request, provided that the Exchange promptly provides written notice to its applicants and members whenever Cboe proposes to change a Cboe Incorporated Rule.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Advisers Act Release No. 5690/803-00247]

Lewis Family Advisors, LLC

February 24, 2021.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of application for an exemptive order under section 202(a)(11)(H) of the Investment Advisers Act of 1940 ("Advisers Act").

APPLICANT: Lewis Family Advisors, LLC (the "Applicant").

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 202(a)(11)(H) of the Advisers Act from section 202(a)(11) of the Advisers Act.

SUMMARY OF APPLICATION: The Applicant requests that the Commission issue an order declaring it to be a person not within the intent of Section 202(a)(11) of the Advisers Act, which defines the term "investment adviser."

FILING DATES: The application was filed on June 4, 2018, and amended on August 30, 2019, and December 8, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving the Applicant with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on March 22, 2021, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Advisers Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons may request notification of a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicant: Lewis Family Advisors, LLC, c/o Clare F. Black, Esq., at *clare.black@lewismc.com*.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551-6811 or Kaitlin C. Bottock, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website either at <http://www.sec.gov/rules/iareleases.shtml> or by calling (202) 551-8090.

Applicant's Representations

1. The Applicant is a Nevada Family Trust Company and a multi-generational single-family office that provides or intends to provide services to the family and descendants of Ralph M. Lewis. The Applicant is wholly-owned by Family Clients and is exclusively controlled (directly and indirectly) by one or more Family Members and/or Family Entities

in compliance with Rule 202(a)(11)(G)-1 (the "Family Office Rule"). For purposes of the application, the term "Lewis Family" means the lineal descendants of Ralph M. Lewis, their spouses or spousal equivalents, and all other persons and entities that qualify as "Family Clients" as defined in paragraph (d)(4) of the Family Office Rule. Unless otherwise indicated, capitalized terms herein have the same meaning as defined in the Family Office Rule.

2. The Applicant provides both advisory and non-advisory services (collectively, "Services") to members of the Lewis Family. Any Service provided by the Applicant that relates to investment advice about securities or may otherwise be construed as advisory in nature is considered an "Advisory Service."

3. The Applicant represents that: (i) Each of the persons served by the Applicant is a Family Client (*i.e.*, the Applicant has no investment advisory clients other than Family Clients as required by paragraph (b)(1) of the Family Office Rule); (ii) the Applicant is owned and controlled in a manner that complies in all respects with paragraph (b)(2) of the Family Office Rule; and (iii) the Applicant does not hold itself out to the public as an investment adviser as required by paragraph (b)(3) of the Family Office Rule. At the time of the application, the Applicant represents that Family Members account for approximately 99% of the natural persons to whom the Applicant provides Advisory Services.

4. In addition to the Family Clients, the Applicant desires to provide Services (including Advisory Services) to a niece ("Niece") of Ralph M. Lewis (the "Additional Family Client"). The Additional Family Client does not have an ownership interest in the Applicant. The Applicant represents that the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Client) would make up at least 100% of the assets for which the Applicant provides Advisory Services.

5. The Applicant represents that the Niece has been supported by Family Members and has been considered and treated as a close family member of the Lewis Family for purposes of intrafamilial affection for many years and has attended various family events. The Applicant maintains that including the Additional Family Client in the "family" would be consistent with the existing familial relationship among the family members.

³¹ See Nasdaq BX Order, *supra* note 29.

³² 15 U.S.C. 78mm.

³³ 17 CFR 200.30-3(a)(76).