

April 12, 2023

VIA EMAIL (tradingandmarkets@sec.gov)

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: CAT LLC v. SEC; Request for Extension of Exemptive Relief under Securities Exchange Act Release No. 95234

Dear Ms. Countryman:

The Consolidated Audit Trail, LLC (“CAT LLC”), on behalf of the Participants¹ in the National Market System Plan Governing the Consolidated Audit Trail² (the “CAT NMS Plan” or “Plan”), respectfully requests that the Securities and Exchange Commission (the “Commission” or “SEC”) extend the relief granted in its exemptive order dated July 8, 2022 (the “July 8 Order”)³ from July 31, 2024 to January 31, 2025, in order to facilitate further settlement discussions between the Participants and Commission staff. The Participants believe that the requested relief is “necessary or appropriate in the public interest, and is consistent with the protection of investors,”⁴ and 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 mechanisms of, a national market system.”⁵

The July 8 Order set forth the Commission’s interpretation of certain provisions of the CAT NMS Plan and gave the Participants until July 31, 2024 to either implement the required functionality to comply with those interpretations or to obtain Commission approval of alternative solutions that achieve the relevant regulatory objectives of Rule 613 and the CAT NMS Plan in a more cost-effective manner, including CAT NMS Plan amendments or permanent exemptive relief. On September 6, 2022, the Participants filed a petition for review with the U.S. Court of Appeals for the District of Columbia Circuit seeking review of the July 8 Order,⁶ and

¹ The twenty-five Participants of the CAT NMS Plan are: 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, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange 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.

² 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 Rel. No. 79318 (Nov. 15, 2016), 81 Fed. Reg. 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”). The full text of the CAT NMS Plan is available at www.catnmsplan.com. Unless otherwise defined herein, capitalized terms are defined as set forth in the CAT NMS Plan.

³ Securities Exchange Release No. 95234 (July 8, 2022), 87 Fed. Reg. 42247 (July 14, 2022).

⁴ 15 U.S.C. § 78mm(a)(1).

⁵ 17 CFR § 242.608(e).

⁶ See Petition for Review, USCA Case No. 22-1234.

the parties subsequently filed a joint motion to hold the case in abeyance while the parties pursue settlement negotiations.

The Participants and the Commission staff have met regularly over the past several months to discuss the issues presented by the July 8 Order and we believe that significant progress is being made in these settlement discussions.⁷ Nevertheless, in light of the fact that the issues presented by the July 8 Order have not been resolved, and given the Participants' interest in preserving the ability to litigate the case to a final judgment before the compliance deadline, the parties filed a motion to resume the litigation on March 22, 2023. The Participants believe a six-month extension of the compliance deadline in the July 8 Order will provide the parties with adequate time to conclude their settlement negotiations and allow the Commission time to consider any resulting Plan amendments or exemptive relief. The Participants agree that, in the event that the Commission grants an extension of the July 2024 compliance deadlines, the parties will promptly seek an abeyance of the litigation for an appropriate length of time in light of the duration of the extension, the status of settlement negotiations, and related considerations.

For the reasons discussed above, the Participants request that the Commission extend the exemptions granted in the July 8 Order from July 31, 2024 to January 31, 2025, subject to the same conditions set forth in the July 8 Order.

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Respectfully submitted,

/s/ Brandon Becker

Brandon Becker
CAT NMS Plan Operating Committee Chair

cc: The Hon. Gary Gensler, Chair
The Hon. Hester M. Peirce, Commissioner
The Hon. Caroline A. Crenshaw, Commissioner
The Hon. Mark T. Uyeda, Commissioner
The Hon. Jaime Lizárraga, Commissioner
Hugh Beck, Senior Advisor for Regulatory Reporting
Haixiang Zhu, Director, Division of Trading and Markets
David S. Shillman, Associate Director, Division of Trading and Markets
David Hsu, Assistant Director, Division of Trading and Markets
Mark Donohue, Senior Policy Advisor, Division of Trading and Markets
Erika Berg, Special Counsel, Division of Trading and Markets

⁷ These discussions are a continuation of the settlement talks that began in March 2021 regarding the Commission's prior orders dated December 16, 2020. See Securities Exchange Act Release No. 90689 (Dec. 16, 2020), 85 Fed. Reg. 83667 (Dec. 22, 2020); Securities Exchange Act Release No. 90688 (Dec. 16, 2020), 85 Fed. Reg. 83634 (Dec. 22, 2020). The Participants filed petitions for review of the December 2020 orders, which were voluntarily dismissed following issuance of the July 8 Order.