



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102980; File No. 4-698]

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

May 2, 2025

I. Introduction

By letter dated March 24, 2025, Consolidated Audit Trail, LLC (“CAT LLC”) on behalf of 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, MIAX Sapphire, 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”) to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”),¹ requested that the Securities and Exchange Commission (“Commission” or “SEC”) provide exemptive relief to the Participants, pursuant to its authority under Section 36 of the Securities Exchange Act of 1934 (“Exchange Act”)² and Rule 608(e) of Regulation NMS under the Exchange Act, from the

¹ The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No. 79318, 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

² 15 U.S.C. 78mm(a)(1).

timestamp granularity requirements of Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan.³

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.”⁴ 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.”⁵

For the reasons set forth below, this Order grants the Participants’ request for a temporary exemption from Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan as set forth in the March 24, 2025 Exemption Request, subject to certain conditions.

II. Description

The CAT NMS Plan sets forth certain requirements regarding the granularity 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

³ See letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission, dated March 24, 2025 (the “March 24, 2025 Exemption Request”). Unless otherwise noted, capitalized terms are used as defined in the CAT NMS Plan.

⁴ 15 U.S.C. 78mm(a)(1).

⁵ 17 CFR 242.608(e).

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.”⁶ 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.”⁷ 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.”

On April 8, 2020, the Commission granted the Participants conditional exemptive relief, for five years (until April 8, 2025) and subject to certain conditions, pursuant to Section 36 of the Exchange Act and Rule 608(e) of Regulation NMS under the Exchange Act, relating to the granularity of timestamps specified in Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan.⁸ The April 2020 Exemptive Relief Order, as conditions for relief and consistent with

⁶ 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).

⁷ 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.

⁸ See Securities Exchange Act Release No. 88608 (Apr. 8, 2020), 85 FR 20743 (Apr. 14, 2020) (“April 2020 Exemptive Relief Order”).

the request from the Participants,⁹ required both Participants and Industry Members (through Compliance Rules) to truncate timestamps in increments more granular than nanoseconds to nanoseconds for submission to the CAT, and additionally required the Central Repository to accept timestamps on order events handled electronically to a nanosecond granularity.¹⁰

III. Request for Relief

In the March 24, 2025 Exemption Request, CAT LLC, on behalf of the Participants, requests that the Commission temporarily exempt the Participants from the requirement in Section 6.8(b) of the CAT NMS Plan that Participants reporting CAT Data to the Central Repository utilize timestamps finer than nanoseconds to the extent that the Participant's order handling or execution systems utilize timestamps in increments finer than nanoseconds. In addition, the Participants request that the Commission temporarily exempt the Participants from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. Lastly, the Participants request that the Commission temporarily exempt the Participants from the requirement in Section 3 of Appendix D of the CAT NMS Plan for the Central Repository to be able to accept timestamps on order events handled electronically to the finest level of granularity captured by CAT Reporters. CAT LLC states that the relief granted by the April 2020 Exemptive Relief Order expires on April 8, 2025, and CAT LLC believes that this exemptive relief should be extended for an additional five-year period from the date that the Commission grants the exemptive relief.

⁹ See letter from Mike Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission, dated February 3, 2020, available at: <https://www.catnmsplan.com/sites/default/files/2020-03/Simon-to-Countryman-Timestamp-Granularity-and-Relationship-IDs-%28Final%202.3.20%29.pdf>.

¹⁰ See April 2020 Exemptive Relief Order, *supra* note 8, at 20744-45.

Consistent with the April 2020 Exemptive Relief Order, CAT LLC specifies three conditions to the exemption.¹¹ The first condition requires any Participant that captures timestamps in increments more granular than nanoseconds to truncate the timestamp after the nanosecond level for submission to CAT, and not round up or down in such circumstances.¹² The second condition requires the Participants, through their Compliance Rules, to continue to require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, and not round up or down in such circumstances.¹³ The third condition requires the Central Repository to accept timestamps on order events handled electronically to a nanosecond granularity.¹⁴

The Participants state that they continue to believe that the cost of providing the ability to utilize timestamps in the CAT in a finer granularity than nanoseconds outweighs the benefits.¹⁵ The Participants state that, based on discussions with the Plan Processor, that Participants understand that expanding the capture of timestamp granularity to picoseconds by the Plan Processor would take at least six to nine months at an estimated cost of approximately \$900,000 to \$1,100,000, and that this effort would include technical specification and database modifications, modifying query tools to support querying and sequencing at a picosecond granularity.¹⁶ The Participants also state that they continue to understand that exchanges

¹¹ See March 24, 2025 Exemption Request, supra note 3, at 3-4.

¹² See March 24, 2025 Exemption Request, supra note 3, at 3.

¹³ Participants would require that electronic timestamps submitted by Participants and Industry Members be truncated by Participants and Industry Members if they capture timestamps in increments more granular than nanoseconds, stating that rounding a timestamp would suggest an event occurred later or earlier than it actually occurred, while truncation treats all timestamps as if they were provided with the same level of granularity. See March 24, 2025 Exemption Request, supra note 3, at 3-4.

¹⁴ See March 24, 2025 Exemption Request, supra note 3, at 4.

¹⁵ The Participants state that as part of the part of the annual evaluation required pursuant to Section 6.8(c) of the CAT NMS Plan, the Chief Compliance Officer has conducted an annual analysis of timestamp granularity since the adoption of the April 2020 Exemptive Relief Order. To date, the Chief Compliance Officer has concluded that accepting timestamps in granularity up to nanoseconds is consistent with industry practices and provides adequate granularity for regulator use. See March 24, 2025 Exemption Request, supra note 3, at 4-5.

¹⁶ See March 24, 2025 Exemption Request, supra note 3, at 2, 4.

currently utilize timestamps only to the nanosecond and do not utilize timestamps to picoseconds or to finer increments.¹⁷

In addition, the Participants state that CAT Reportable Events can be adequately sequenced in the CAT without requiring timestamps in a finer granularity than nanoseconds, and that the requested relief would serve to preserve the reliability and accuracy of the data reported to the Central Repository.¹⁸ The Participants state that the CAT NMS Plan separately requires Industry Members to synchronize their clocks to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology (“NIST”).¹⁹ Because of this standard, the Participants state that any two separate clocks can vary by 100 milliseconds; therefore, requiring timestamps in finer granularity than nanoseconds would not improve the ability to sequence events with any reasonable degree of reliability or otherwise enhance regulatory use versus the status quo.²⁰

IV. Discussion

The Commission has carefully considered the information provided by the Participants in support of the Participants’ exemption request from Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan with respect to timestamp granularity, as well as a comment letter received in support of the Participants’ exemption request.²¹ Based on the information provided by the Participants in the March 24, 2025 Exemption Request, the Commission believes that the exemptive relief would provide cost savings and avoid immediate build time for the Plan Processor while not negatively impacting the ability of regulators to use CAT. As stated above, the Participants state that it would take at least six to nine months and approximately \$900,000 to \$1,100,000 to modify the Plan Processor to accept picosecond timestamps. The Participants

¹⁷ See March 24, 2025 Exemption Request, supra note 3, at 4.

¹⁸ See March 24, 2025 Exemption Request, supra note 3, at 4.

¹⁹ See March 24, 2025 Exemption Request, supra note 3, at 4 n.12 (citing CAT NMS Plan Section 6.8(a)(ii)).

²⁰ See March 24, 2025 Exemption Request, supra note 3, at 4.

²¹ See Letter from Howard Meyerson, Managing Director, Financial Information Forum, dated March 28, 2025 (“March FIF Letter”), available at: <https://www.sec.gov/comments/4-698/4698-585555-1689862.pdf>.

state that, as described above, Section 6.8(c) of the CAT NMS Plan will require annual review of timestamp granularity.²²

The Commission has previously stated that regulators need sufficiently granular timestamps to sequence events across orders and within order lifecycles, and that a lack of uniform and granular timestamps can limit the ability of regulators to sequence events accurately and link data with information from other data sources.²³ The Participants state that they continue to understand that exchanges currently utilize timestamps only to the nanosecond and do not utilize timestamps to picoseconds or to finer increments, and Participants state that the CAT NMS Plan requires Industry Members to synchronize their clocks to within 50 milliseconds of the time maintained by NIST.²⁴ Nanoseconds are smaller than milliseconds or microseconds and so the Participants' proposal would result in the collection of information that is at least as granular as existing data sources. The Participants also state that they believe that CAT Reportable Events can be adequately sequenced in the CAT without requiring timestamps in a finer granularity than nanoseconds, and the Participants believe that the requested relief would serve to preserve the reliability and accuracy of the data reported to the Central Repository.²⁵

The proposed approach described in the March 24, 2025 Exemption Request would require both Participants and Industry Members to truncate timestamps in increments more granular than nanoseconds to nanoseconds for submission to the CAT, and the Central

²² In the March 24, 2025 Exemption Request, the Participants state that an analysis of the timestamp granularity would continue to be required as part of the annual evaluation required to be performed by the Chief Compliance Officer pursuant to Section 6.8(c) of the CAT NMS Plan. If the Operating Committee determines that this analysis concludes that the benefit of the CAT Reporters reporting, and the Central Repository providing the ability to accept, timestamps in finer granularity than nanoseconds outweighs the burdens, then the timestamp exemption could be terminated or be revised to reflect more granular timestamps than nanoseconds in accordance with the analysis. See March 24, 2025 Exemption Request, supra note 3, at 5 n.14.

²³ See CAT NMS Plan Approval Order, supra note 1, at 84808-09, 84813.

²⁴ See March 24, 2025 Exemption Request, supra note 3, at 4. See also March FIF Letter, supra note 23, at 2 (stating that 50 milliseconds is 50 million times greater than a nanosecond). The commenter also states that the CAT NMS Plan requires clock synchronization by the CAT Plan Participants to within 100 microseconds, which is 100,000 times greater than a nanosecond. Id.

²⁵ See March 24, 2025 Exemption Request, supra note 3, at 4.

Repository will be required to accept timestamps on order events handled electronically to a nanosecond granularity. Based on the foregoing, the Commission believes that, pursuant to Section 36 of the Exchange Act, this exemption is appropriate in the public interest and consistent with the protection of investors, and that pursuant to Rule 608(e), this 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 the perfection of a national market system to exempt the SROs from Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan with respect to timestamp granularity for a period of five years.

Accordingly, IT IS HEREBY ORDERED, pursuant to Section 36(a)(1) of the Exchange Act,²⁶ and Rule 608(e) of the Exchange Act²⁷ and with respect to the proposed approaches specifically described above, that the Participants are granted a five-year exemption from the timestamp granularity requirement set forth in Section 6.8(b) and Section 3 of Appendix D of the CAT NMS Plan, subject to the conditions described above.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

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²⁶ 15 U.S.C. 78mm(a)(1).

²⁷ 17 CFR 242.608(e).